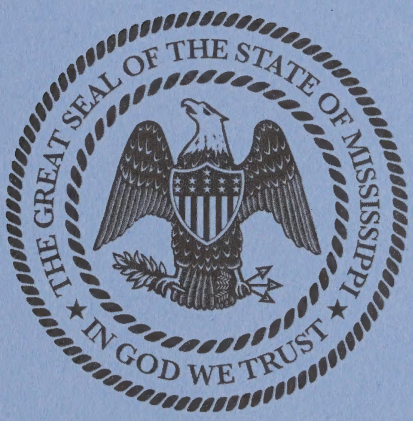
Pamphlet 2

MISSISSIPPI

ADVANCE SHEETS

2020 Legislative Session
General Laws



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MISSISSIPPI GENERAL LAWS ADVANCE SHEETS 2020

Regular Session

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PREFACE

Contents; publication schedule.

The 2020 Advance Sheets of the General Laws of Mississippi are part of the supplementation service for your official *Mississippi Code of 1972 Annotated,* and consist of a series of pamphlets issued during the 2020 Legislative Session of the State of Mississippi. The purpose of this service is to provide you with the most timely legislative information possible, and to make the most recent changes to the *Mississippi Code* available to you in an easy-to-use format.

The Advance Sheets contain all public acts enacted by the Legislature and approved by the Governor during the 2020 Regular Session. This pamphlet, the second in the series, contains the second 90 general bills that have become law. The third and fourth pamphlets will contain the remainder of the acts from the 2020 Regular Session. Appropriation bills and private and local bills are not included in the Advance Sheets.

The acts are arranged in order by House Bill and Senate Bill number, with House Bills appearing first. The final pamphlet will contain a cumulative table of House Bills and Senate Bills and their corresponding chapter numbers.

Summary of acts; tables; index.

To assist you in locating pertinent legislation, the Advance Sheets include several tables and other features prepared by the editorial staff of the publisher. Included in this Pamphlet 2 are the following:

- a **Summary of Acts** summarizing the subject of each act in the pamphlet;
- **Cumulative Legislative Summaries** giving brief descriptions of important legislation;
- a **Cumulative Table of Code Sections Affected** showing the impact of legislation on sections of the *Code*;
- a comprehensive, cumulative **Index**, with headings based on the headings that are used in the general index to the *Code.*

In addition, the following tables will be added to the final pamphlet:

- a **Cumulative Allocation of Acts Table** showing each general law and its effect on the section of the Code;
- **Cumulative Tables of House Bills and Senate Bills** and their corresponding chapter numbers.

As an added research feature, we have included an individual **Act Summary** preceding each General Law. This summary contains (1) a description of the act, (2) the legislative history of the act, (3) background information, such as the effective date and disposition of the act, (4) the House and Senate committees to which the act was referred, (5) the principal author of the act, and (6) a list of the *Code* sections affected by the act. To better utilize these act summaries, you should be familiar with the following abbreviations and their meanings:

- Under the heading "Background Information"
  "VRA" = Voting Rights Act
  "App. Req." = Approval Required
- Under the heading "Code Sections"
  "A" = Amended
  "R" = Reenacted
  "RA" = Reenacted and Amended
  "RP" = Repealed
  "BF" = Brought Forward

Treatment of acts in the Advance Sheets.

The most recent General Laws are printed herein exactly as passed. No corrections or other editorial changes have been made.

The Legislature has indicated changes to *Code* materials by using the following symbols:

- Single underscoring of material appearing in an act indicates text that will appear as newly added language in the *Mississippi Code*. For an entirely new section, the section number will be underscored. Double underscoring in the text of an act reflects an amendment to the language of the original bill.
- Triple asterisks (***) appearing in an act indicate the deletion of text from a section of the *Mississippi Code*. Where asterisks appear on a line by themselves, the deletion of one or more paragraphs is indicated.

Treatment of acts in *Mississippi Code of 1972 Annotated.*

It is IMPORTANT to note that the treatment of some legislation, when it later appears in the *Mississippi Code of 1972 Annotated*, may be subject to change for various reasons. For example:

- Certain sections of the acts printed in this Advance Sheet were not assigned *Code* section numbers; in these instances, the publisher's staff of legal analysts will suggest *Code* section designations, and these recommendations will be sent to the Joint Legislative Committee on Compilation, Revision and Publication of Legislation for approval;
- *Code* section number assignments might be changed, pursuant to the authority of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, because of conflicts with previously existing section numbers or because of other refinements made during the editorial process; or
- Text of sections might be changed, also pursuant to the authority of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, because of conflicts with other approved legislation from the 2020 Legislative Session.

Any such changes will be reflected in the 2020 *Mississippi Code of 1972 Annotated* supplements and replacement volumes.

Information, suggestions, comments, and questions.

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Suggestions, comments, or questions about the *Mississippi Code* or the Advance Sheets are always welcome. You may contact us by calling us toll-free at (800) 833-9844, faxing us toll-free at (800) 643-1280, e-mailing us at customer.support@bender.com, or writing to *Mississippi Code* Editor, Matthew Bender & Co., Inc., 701 E Water St., Charlottesville, Virginia 22902-5389.

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of important legislation enacted during

2020 Legislative Session

of the

State of Mississippi

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AMUSEMENT RIDE SAFETY

Enactment of provisions for inspections, operation, incident reporting and investigation, and safety. **HB 999**

COLLEGES AND UNIVERSITIES

College preparatory curriculum requirements for admission to a state university under the higher education legislative plan grant program, removal of specific number of credit hours required. **HB 274**

COTTAGE FOOD OPERATIONS

Threshold sales for exemption from permitting requirements raised, and online advertising permitted. **HB 326**

COVID-19 RELIEF

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DEER

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DRUGS AND CONTROLLED SUBSTANCES

Prescription of controlled substances for pain by hospice medical director permitted without face-to-face visit. **HB 1520**

EXEMPTIONS FROM ATTACHMENT OR EXECUTION

Roth IRA's exempt from seizure. **HB 1071**

HOSPICE CARE

Prescription of controlled substances for pain by hospice medical director permitted without face-to-face visit. **HB 1520**

HUNTING

Authority of commission to extend certain open seasons over a weekend period. **SB 2723**

INCOME TAX

Individual taxpayer permitted to designate two bank accounts for direct deposit of refund. **HB 597**

Interest rate on unpaid taxes made consistent with rate provided in other provisions of law. **HB 859**

INDIVIDUAL RETIREMENT ACCOUNTS

Roth IRA's exempt from seizure under execution or attachment. **HB 1071**

LIMITED LIABILITY COMPANIES

Foreign limited liability company registration may be administratively revoked for tax delinquencies. **SB 2510**

NOTARIES PUBLIC

Revised Mississippi law on notarial acts, enacted. **HB 1156**

PUBLIC ASSISTANCE

Right of state auditor to examine tax returns necessary for auditing benefits administered by the United States Department of Health and Human Services and the Department of Agriculture. **SB 2257**

PUBLIC OFFICERS AND EMPLOYEES

Ability of political subdivision to grant administrative leave with pay to employees in the event of a disaster or emergency. **HB 1647**

PUBLIC UTILITIES

Trespass on or impeding critical infrastructure facilities defined and penalties enacted. **HB 1243**

REAL ESTATE LICENSEES

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RIGHT TO TRY ACT

Applicability to traumatic injuries and adult autologous mesenchymal stem cell treatments. **SB 2830**

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SCHOOLS AND EDUCATION

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Hunter safety education authorized as part of curriculum or after school programs. **HB 1577**

State board of education permitted to delegate administrative powers and duties as trustees regarding the schools for the deaf and the blind. **HB 667**

SEAL OF STATE OF MISSISSIPPI

In God We Trust, language added to state seal. **SB 2131**

TAXATION

Foreign limited liability company registration may be administratively revoked for tax delinquencies. **SB 2510**

Individual taxpayer permitted to designate two bank accounts for direct deposit of refund. **HB 597**

Interest rate on unpaid taxes made consistent with rate provided in other provisions of law. **HB 859**

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TERMINATION OF PARENTAL RIGHTS

County courts, when court has original exclusive jurisdiction over proceedings. **HB 1129**

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
7-3-7	Amended		sb2131	1	2
15-1-83	Added		sb2430	1	2
15-1-85	Added		sb2430	2	2
21-19-11	Amended		hb0444	1	2
	Classification				
25-3-63	Pending		hb1647	1	1
25-15-303	Amended		hb0676	1	2
27-7-39	Amended		hb0597	1	2
27-7-83	Amended		sb2257	1	1
27-19-81	Amended		sb2660	2	2
27-25-519	Amended		hb0977	1	2
27-25-717	Amended		hb0977	2	2
27-51-103	Amended		sb2365	1	2
27-55-7	Amended		hb0866	1	2
27-55-13	Amended		hb0866	9	2
27-55-507	Amended		hb0866	2	2
27-55-523	Amended		hb0866	10	2
27-57-5	Amended		hb0866	5	2
27-57-7	Amended		hb0866	3	2
27-57-9	Amended		hb0866	6	2
27-57-11	Amended		hb0866	7	2
27-57-13	Amended		hb0866	13	2
27-57-17	Amended		hb0866	8	2
27-59-7	Amended		hb0866	4	2
27-59-13	Amended		hb0866	11	2
27-59-311	Amended		hb0866	12	2
27-65-17	Amended		sb2319	1	2
	Brought				
27-69-5	Forward		hb1486	2	2
27-69-9	Amended		hb1486	1	2
27-71-301	Amended		sb2552	3	2
	Brought				
27-71-303	Forward		sb2552	4	2
29-3-113	Amended		sb2565	1	2
31-41-47	Amended		hb1176	1	2
33-13-155	Amended		sb2611	1	2
33-13-157	Amended		sb2611	2	2
33-13-159	Amended		sb2611	3	2
37-3-2	Amended		sb2511	1	2
37-7-104.4	Amended		sb2506	1	2
37-11-27	Amended		sb2283	1	2
37-13-89	Amended		hb0263	1	2
37-17-13	Amended		sb2509	1	2
37-106-55	Amended		sb2353	1	2
37-106-75	Amended		hb0274	1	2
37-155-9	Amended		sb2881	1	2
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37-159-7	Amended		sb2508	3	2
37-159-9	Amended		sb2508	4	2
37-159-11	Amended		sb2508	5	2

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

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37-159-13	Amended		sb2508	6	2
37-159-17	Amended		sb2508	7	2
37-159-19	Added		sb2508	8	2
37-181-1	Reenacted		sb2594	1	2
37-181-3	Amended		sb2594	2	2
37-181-5	Amended		sb2594	3	2
37-181-7	Amended		sb2594	4	2
37-181-9	Amended		sb2594	5	2
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37-181-17	Amended		sb2594	9	2
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41-131-1	Amended		sb2830	1	2
43-13-121	Amended		sb2486	1	2
43-21-301	Amended		hb1131	1	2
43-21-303	Amended		hb1131	2	2
43-21-609	Amended		hb1127	1	2
43-21-609	Eff date		hb1127	2	2
49-1-29	Amended		sb2722	2	2
49-7-31	Amended		sb2723	1	2
49-7-31.2	Amended		sb2723	2	2
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49-7-31.4	Amended		sb2723	4	2
49-7-58.1	Amended		sb2722	3	2
49-7-58.2	Amended		sb2722	4	2
49-15-9	Amended	15	hb0632	1	2
63-5-27	Brought Forward		sb2467	2	2
63-5-29	Brought Forward		sb2467	3	2
63-5-31	Brought Forward		sb2467	4	2
63-5-33	Amended		sb2467	1	2
63-5-49	Amended		sb2660	1	2
63-5-52	Amended		sb2716	1	2
63-21-15	Amended		hb0869	1	2
63-21-15	Amended		sb2099	1	2
67-1-18	Amended		hb0858	1	2
67-3-22	Amended		sb2552	1	2
67-3-69	Amended		sb2552	2	2
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77-1-1	Amended		sb2386	1	2
77-1-3	Reenacted		sb2386	2	2
77-1-5	Reenacted		sb2386	3	2
77-1-6	Reenacted		sb2386	4	2
77-1-11	Amended		sb2386	5	2

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

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77-1-15	Amended		sb2386	6	2
77-1-17	Repealed		sb2386	23	2
77-1-19	Repealed		sb2386	24	2
77-1-21	Repealed		sb2386	25	2
77-1-25	Reenacted		sb2386	7	2
77-1-27	Amended		sb2386	8	2
77-1-29	Reenacted		sb2386	9	2
77-1-31	Reenacted		sb2386	10	2
77-1-33	Reenacted		sb2386	11	2
77-1-35	Reenacted		sb2386	12	2
77-1-37	Reenacted		sb2386	13	2
77-1-39	Reenacted		sb2386	14	2
77-1-41	Reenacted		sb2386	15	2
77-1-43	Reenacted		sb2386	16	2
77-1-47	Reenacted		sb2386	17	2
77-1-49	Reenacted		sb2386	18	2
77-1-51	Amended		sb2386	19	2
77-1-55	Amended		sb2386	20	2
77-3-42	Amended		sb2386	22	2
77-3-93	Amended		sb2386	21	2
79-29-1021	Amended		sb2510	1	2
81-18-1	Reenacted		sb2427	1	2
81-18-3	Reenacted		sb2427	2	2
81-18-5	Reenacted		sb2427	3	2
81-18-7	Reenacted		sb2427	4	2
81-18-8	Reenacted		sb2427	5	2
81-18-9	Reenacted		sb2427	6	2
81-18-11	Reenacted		sb2427	7	2
81-18-13	Reenacted		sb2427	8	2
81-18-14	Reenacted		sb2427	9	2
81-18-15	Reenacted		sb2427	10	2
81-18-17	Reenacted		sb2427	11	2
81-18-19	Reenacted		sb2427	12	2
81-18-21	Amended		sb2427	13	2
81-18-23	Reenacted		sb2427	14	2
81-18-25	Reenacted		sb2427	15	2
81-18-27	Reenacted		sb2427	16	2
81-18-28	Reenacted		sb2427	17	2
81-18-29	Reenacted		sb2427	18	2
81-18-31	Reenacted		sb2427	19	2
81-18-33	Amended		sb2427	20	2
81-18-35	Reenacted		sb2427	21	2
81-18-36	Reenacted		sb2427	22	2
81-18-37	Reenacted		sb2427	23	2
81-18-39	Reenacted		sb2427	24	2
81-18-40	Reenacted		sb2427	25	2
81-18-41	Reenacted		sb2427	26	2
81-18-43	Reenacted		sb2427	27	2
81-18-45	Reenacted		sb2427	28	2
81-18-47	Reenacted		sb2427	29	2
81-18-49	Reenacted		sb2427	30	2
81-18-51	Repealed		sb2427	35	2
81-18-53	Reenacted		sb2427	31	2

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
81-18-55	Reenacted		sb2427	32	2
81-18-61	Reenacted		sb2427	33	2
81-18-63	Reenacted		sb2427	34	2
83-11-101	Amended		sb2230	1	2
83-11-551	Amended		sb2301	1	2
83-19-151	Amended		hb0408	1	2
83-19-157	Amended		hb0408	2	2
83-23-203	Amended		sb2227	1	2
83-23-205	Amended		sb2227	2	2
83-23-209	Amended		sb2227	3	2
83-23-211	Amended		sb2227	4	2
83-23-215	Amended		sb2227	5	2
83-23-217	Amended		sb2227	6	2
83-23-221	Amended		sb2227	7	2
83-23-223	Amended		sb2227	8	2
83-23-225	Amended		sb2227	9	2
83-23-235	Amended		sb2227	10	2
83-23-239	Added		sb2227	11	2
83-75-1	Amended		sb2709	1	2
83-75-3	Amended		sb2709	2	2
83-75-5	Amended		sb2709	3	2
85-3-1	Amended		hb1071	1	2
91-1-1	Amended		sb2850	1	2
91-5-35	Amended		sb2850	2	2
91-7-1	Amended		sb2850	3	2
91-7-33	Amended		sb2850	4	2
91-7-322	Amended		sb2850	7	2
91-17-412	Amended		sb2850	5	2
91-17-501	Amended		sb2850	6	2
93-14-401	Repealed		sb2874	29	2
93-14-402	Repealed		sb2874	29	2
93-14-403	Repealed		sb2874	29	2
93-15-105	Amended		hb1129	1	2
93-20-102	Amended		sb2874	1	2
93-20-104	Amended		sb2874	2	2
93-20-105	Amended		sb2874	3	2
93-20-107	Amended		sb2874	4	2
93-20-108	Amended		sb2874	5	2
93-20-113	Amended		sb2874	6	2
93-20-116	Amended		sb2874	7	2
93-20-118	Amended		sb2874	8	2
93-20-125	Amended		sb2874	9	2
93-20-201	Amended		sb2874	10	2
93-20-202	Amended		sb2874	11	2
93-20-203	Amended		sb2874	12	2
93-20-206	Amended		sb2874	13	2
93-20-207	Amended		sb2874	14	2
93-20-301	Amended		sb2874	15	2
93-20-302	Amended		sb2874	16	2
93-20-303	Amended		sb2874	17	2
93-20-306	Amended		sb2874	18	2
93-20-309	Amended		sb2874	19	2
93-20-310	Amended		sb2874	20	2

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
93-20-311	Amended		sb2874	21	2
93-20-403	Amended		sb2874	22	2
93-20-405	Amended		sb2874	23	2
93-20-407	Amended		sb2874	24	2
93-20-408	Amended		sb2874	25	2
93-20-411	Amended		sb2874	26	2
93-20-413	Amended		sb2874	27	2
93-20-431	Amended		sb2874	28	2
97-32-5	Amended		hb1486	4	2
99-3-28	Amended		sb2061	1	2

Mississippi Legislature
2020 Regular Session

House Bill 117

Description: Water well contractor's license; remove requirement that applicant must present three affidavits to the DEQ examining committee.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/24	(H) Referred To Conservation and Water Resources
2	02/20	(H) Title Suff Do Pass
3	03/04	(H) Passed {Vote}
4	03/05	(H) Transmitted To Senate
5	05/12	(S) Referred To Environment Prot, Cons and Water Res
6	06/04	(S) Title Suff Do Pass
7	06/11	(S) Passed {Vote}
8	06/12	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 051-0005-0003

----- Additional Information -----

House Committee: Conservation and Water Resources
Senate Committee: Environment Prot, Cons and Water Res

Principal Author: Faulkner

Title: AN ACT TO AMEND SECTION 51-5-3, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT AN APPLICANT MUST PRESENT THREE NOTARIZED AFFIDAVITS TO THE EXAMINING COMMITTEE OF THE COMMISSION ON ENVIRONMENTAL QUALITY TO OBTAIN A WATER WELL CONTRACTOR'S LICENSE; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 117

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Faulkner

To: Conservation and Water Resources

HOUSE BILL NO. 117

AN ACT TO AMEND SECTION 51-5-3, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT AN APPLICANT MUST PRESENT THREE NOTARIZED AFFIDAVITS TO THE EXAMINING COMMITTEE OF THE COMMISSION ON ENVIRONMENTAL QUALITY TO OBTAIN A WATER WELL CONTRACTOR'S LICENSE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 51-5-3, Mississippi Code of 1972, is amended as follows:

51-5-3. * * * In order to be licensed as a water well contractor in the State of Mississippi, the applicant must be qualified as set out below:

(a) Be at least twenty-one (21) years of age;

(b) Be of good moral character;

(c) Demonstrate to the satisfaction of the commission a reasonable knowledge of this chapter and the rules and regulations adopted by the commission under the provisions of this chapter;

(d) Possess the necessary drilling equipment, or present to the commission sufficient evidence to show that he has access to the use of such equipment at any time he needs it; and

(e) Have not less than three (3) years' experience in the work for which he is applying for a license.

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 263

Description: School attendance officers; clarify salaries of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	01/27	(H) Referred To Appropriations
2	02/20	(H) Title Suff Do Pass
3	02/25	(H) Passed {Vote}
4	02/26	(H) Transmitted To Senate
5	02/28	(S) Referred To Appropriations
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 037-0013-0089

----- Additional Information -----

House Committee: Appropriations
Senate Committee: Appropriations

Principal Author: Read

Title: AN ACT TO AMEND SECTION 37-13-89, MISSISSIPPI CODE OF 1972, TO REVISE THE ANNUAL SALARIES OF SCHOOL ATTENDANCE OFFICERS TO REFLECT THE CURRENT ANNUAL SALARIES BEING PAID TO SUCH OFFICERS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Read To: Appropriations

HOUSE BILL NO. 263

AN ACT TO AMEND SECTION 37-13-89, MISSISSIPPI CODE OF 1972, TO REVISE THE ANNUAL SALARIES OF SCHOOL ATTENDANCE OFFICERS TO REFLECT THE CURRENT ANNUAL SALARIES BEING PAID TO SUCH OFFICERS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-13-89, Mississippi Code of 1972, is amended as follows:

37-13-89. (1) In each school district within the state, there shall be employed the number of school attendance officers determined by the Office of Compulsory School Attendance Enforcement to be necessary to adequately enforce the provisions of the Mississippi Compulsory School Attendance Law; however, this number shall not exceed one hundred fifty-three (153) school attendance officers at any time. From and after July 1, 1998, all school attendance officers employed pursuant to this section shall be employees of the State Department of Education. The State Department of Education shall employ all persons employed as school attendance officers by district attorneys before July 1, 1998, and shall assign them to school attendance responsibilities

in the school district in which they were employed before July 1, 1998. The first twelve (12) months of employment for each school attendance officer shall be the probationary period of state service.

(2) (a) The State Department of Education shall obtain current criminal records background checks and current child abuse registry checks on all persons applying for the position of school attendance officer after July 2, 2002. The criminal records information and registry checks must be kept on file for any new hires. In order to determine an applicant's suitability for employment as a school attendance officer, the applicant must be fingerprinted. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The applicant shall pay the fee, not to exceed Fifty Dollars ($50.00), for the fingerprinting and criminal records background check; however, the State Department of Education, in its discretion, may pay the fee for the fingerprinting and criminal records background check on behalf of any applicant. Under no circumstances may a member of the State Board of Education, employee of the State Department of Education or any person other than the subject of the criminal records background check disseminate information received through any such checks except insofar as required to fulfill the purposes of this subsection.

(b) If the fingerprinting or criminal records check discloses a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault which has not been reversed on appeal or for which a pardon has not been granted, the applicant is not eligible to be employed as a school attendance officer. Any employment of an applicant pending the results of the fingerprinting and criminal records check is voidable if the new hire receives a disqualifying criminal records check. However, the State Board of Education, in its discretion, may allow an applicant aggrieved by an employment decision under this subsection to appear before the board, or before a hearing officer designated for that purpose, to show mitigating circumstances that may exist and allow the new hire to be employed as a school attendance officer. The State Board of Education may grant waivers for mitigating circumstances, which may include, but are not necessarily limited to: (i) age at which the crime was committed; (ii) circumstances surrounding the crime; (iii) length of time since the conviction and criminal history since the conviction; (iv) work history; (v) current employment and character references; and (vi) other evidence demonstrating the ability of the person to perform the responsibilities of a school

attendance officer competently and that the person does not pose a threat to the health or safety of children.

(c) A member of the State Board of Education or employee of the State Department of Education may not be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section.

(3) Each school attendance officer shall possess a college degree with a major in a behavioral science or a related field or shall have no less than three (3) years combined actual experience as a school teacher, school administrator, law enforcement officer possessing such degree, and/or social worker; however, these requirements shall not apply to persons employed as school attendance officers before January 1, 1987. School attendance officers also shall satisfy any additional requirements that may be established by the State Personnel Board for the position of school attendance officer.

(4) It shall be the duty of each school attendance officer to:

(a) Cooperate with any public agency to locate and identify all compulsory-school-age children who are not attending school;

(b) Cooperate with all courts of competent jurisdiction;

(c) Investigate all cases of nonattendance and unlawful absences by compulsory-school-age children not enrolled in a nonpublic school;

(d) Provide appropriate counseling to encourage all school-age children to attend school until they have completed high school;

(e) Attempt to secure the provision of social or welfare services that may be required to enable any child to attend school;

(f) Contact the home or place of residence of a compulsory-school-age child and any other place in which the officer is likely to find any compulsory-school-age child when the child is absent from school during school hours without a valid written excuse from school officials, and when the child is found, the officer shall notify the parents and school officials as to where the child was physically located;

(g) Contact promptly the home of each compulsory-school-age child in the school district within the officer's jurisdiction who is not enrolled in school or is not in attendance at public school and is without a valid written excuse from school officials; if no valid reason is found for the nonenrollment or absence from the school, the school attendance officer shall give written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance;

(h) Collect and maintain information concerning absenteeism, dropouts and other attendance-related problems, as may be required by law or the Office of Compulsory School Attendance Enforcement; and

(i) Perform all other duties relating to compulsory school attendance established by the State Department of Education or district school attendance supervisor, or both.

(5) While engaged in the performance of his duties, each school attendance officer shall carry on his person a badge identifying him as a school attendance officer under the Office of Compulsory School Attendance Enforcement of the State Department of Education and an identification card designed by the State Superintendent of Public Education and issued by the school attendance officer supervisor. Neither the badge nor the identification card shall bear the name of any elected public official.

(6) The State Personnel Board shall develop a salary scale for school attendance officers as part of the variable compensation plan. The various pay ranges of the salary scale shall be based upon factors including, but not limited to, education, professional certification and licensure, and number of years of experience. School attendance officers shall be paid in accordance with this salary scale. The minimum salaries under the scale shall be no less than the following:

(a) For school attendance officers holding a bachelor's degree or any other attendance officer who does not hold such a degree, the annual salary shall be based on years of experience as a school attendance officer or related field of service or employment, no less than as follows:

Years of Experience	Salary
0 - 4 years	$ * * *24,528.29
5 - 8 years	* * *26,485.29
9 - 12 years	* * *28,050.89
13 - 16 years	* * *29,616.49
Over 17 years	* * *31,182.09

(b) For school attendance officers holding a license as a social worker, the annual salary shall be based on years of experience as a school attendance officer or related field of service or employment, no less than as follows:

Years of Experience	Salary
0 - 4 years	$ * * *25,558.29
5 - 8 years	* * *27,927.29
9 - 12 years	* * *29,822.49
13 - 16 years	* * *31,717.69
17 - 20 years	* * *33,612.89
Over 21 years	* * *35,415.39

(c) For school attendance officers holding a master's degree in a behavioral science or a related field, the annual salary shall be based on years of experience as a school

attendance officer or related field of service or employment, no less than as follows:

Years of Experience	Salary
0 - 4 years	$ * * *26,382.29
5 - 8 years	* * *29,008.79
9 - 12 years	* * *31,109.99
13 - 16 years	* * *33,211.19
17 - 20 years	* * *35,312.39
Over 21 years	* * *37,413.59

(7) (a) Each school attendance officer employed by a district attorney on June 30, 1998, who became an employee of the State Department of Education on July 1, 1998, shall be awarded credit for personal leave and major medical leave for his continuous service as a school attendance officer under the district attorney, and if applicable, the youth or family court or a state agency. The credit for personal leave shall be in an amount equal to one-third (1/3) of the maximum personal leave the school attendance officer could have accumulated had he been credited with such leave under Section 25-3-93 during his employment with the district attorney, and if applicable, the youth or family court or a state agency. The credit for major medical leave shall be in an amount equal to one-half (1/2) of the maximum major medical leave the school attendance officer could have accumulated had he been credited with such leave under Section 25-3-95 during his employment with the district attorney,

and if applicable, the youth or family court or a state agency. However, if a district attorney who employed a school attendance officer on June 30, 1998, certifies, in writing, to the State Department of Education that the school attendance officer had accumulated, pursuant to a personal leave policy or major medical leave policy lawfully adopted by the district attorney, a number of days of unused personal leave or major medical leave, or both, which is greater than the number of days to which the school attendance officer is entitled under this paragraph, the State Department of Education shall authorize the school attendance officer to retain the actual unused personal leave or major medical leave, or both, certified by the district attorney, subject to the maximum amount of personal leave and major medical leave the school attendance officer could have accumulated had he been credited with such leave under Sections 25-3-93 and 25-3-95.

(b) For the purpose of determining the accrual rate for personal leave under Section 25-3-93 and major medical leave under Section 25-3-95, the State Department of Education shall give consideration to all continuous service rendered by a school attendance officer before July 1, 1998, in addition to the service rendered by the school attendance officer as an employee of the department.

(c) In order for a school attendance officer to be awarded credit for personal leave and major medical leave or to retain the actual unused personal leave and major medical leave

accumulated by him before July 1, 1998, the district attorney who employed the school attendance officer must certify, in writing, to the State Department of Education the hire date of the school attendance officer. For each school attendance officer employed by the youth or family court or a state agency before being designated an employee of the district attorney who has not had a break in continuous service, the hire date shall be the date that the school attendance officer was hired by the youth or family court or state agency. The department shall prescribe the date by which the certification must be received by the department and shall provide written notice to all district attorneys of the certification requirement and the date by which the certification must be received.

(8) (a) School attendance officers shall maintain regular office hours on a year-round basis; however, during the school term, on those days that teachers in all of the school districts served by a school attendance officer are not required to report to work, the school attendance officer also shall not be required to report to work. (For purposes of this subsection, a school district's school term is that period of time identified as the school term in contracts entered into by the district with licensed personnel.) A school attendance officer shall be required to report to work on any day recognized as an official state holiday if teachers in any school district served by that school attendance officer are required to report to work on that

day, regardless of the school attendance officer's status as an employee of the State Department of Education, and compensatory leave may not be awarded to the school attendance officer for working during that day. However, a school attendance officer may be allowed by the school attendance officer's supervisor to use earned leave on such days.

(b) The State Department of Education annually shall designate a period of six (6) consecutive weeks in the summer between school years during which school attendance officers shall not be required to report to work. A school attendance officer who elects to work at any time during that period may not be awarded compensatory leave for such work and may not opt to be absent from work at any time other than during the six (6) weeks designated by the department unless the school attendance officer uses personal leave or major medical leave accrued under Section 25-3-93 or 25-3-95 for such absence.

(9) The State Department of Education shall provide all continuing education and training courses that school attendance officers are required to complete under state law or rules and regulations of the department.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

House Bill 266

Description: State contract price; authorize rural water associations to purchase commodities under.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/27	(H)	Referred To Accountability, Efficiency, Transparency
2	02/27	(H)	Title Suff Do Pass Comm Sub
3	03/05	(H)	Committee Substitute Adopted
4	03/05	(H)	Amended
5	03/05	(H)	Passed As Amended {Vote}
6	03/09	(H)	Transmitted To Senate
7	05/11	(S)	Referred To Accountability, Efficiency, Transparency
8	06/08	(S)	Title Suff Do Pass
9	06/11	(S)	Passed {Vote}
10	06/12	(S)	Returned For Enrolling
11	06/18	(H)	Enrolled Bill Signed
12	06/18	(S)	Enrolled Bill Signed
13	06/25		Approved by Governor

Amendments:
[H] Amendment No 1 (Cmte Sub)***Adopted*** Voice Vote

Code Section: A 031-0007-0009

----- Additional Information -----

House Committee: Accountability, Efficiency, Transparency
Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Rosebud
Additional Authors: Anthony

Title: AN ACT TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF 1972, TO REQUIRE THE OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT

OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ADOPT PURCHASING REGULATIONS AUTHORIZING RURAL WATER ASSOCIATIONS TO PURCHASE AT THE STATE CONTRACT PRICE AFFORDED TO AGENCIES AND GOVERNING AUTHORITIES; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Rosebud, Anthony

To: Accountability, Efficiency, Transparency

HOUSE BILL NO. 266
(As Passed the House)

AN ACT TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF 1972, TO REQUIRE THE OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ADOPT PURCHASING REGULATIONS AUTHORIZING RURAL WATER ASSOCIATIONS TO PURCHASE AT THE STATE CONTRACT PRICE AFFORDED TO AGENCIES AND GOVERNING AUTHORITIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 31-7-9, Mississippi Code of 1972, is amended as follows:

31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet Management shall adopt purchasing regulations governing the purchase by any agency of any commodity or commodities and establishing standards and specifications for a commodity or commodities and the maximum fair prices of a commodity or commodities, subject to the approval of the Public Procurement Review Board. It shall have the power to amend, add to or eliminate purchasing regulations. The adoption of, amendment, addition to or elimination of purchasing regulations shall be based upon a determination by the Office of Purchasing, Travel and Fleet Management with the approval of the Public Procurement

Review Board, that such action is reasonable and practicable and advantageous to promote efficiency and economy in the purchase of commodities by the agencies of the state. Upon the adoption of any purchasing regulation, or an amendment, addition or elimination therein, copies of same shall be furnished to the State Auditor and to all agencies affected thereby. Thereafter, and except as otherwise may be provided in subsection (2) of this section, no agency of the state shall purchase any commodities covered by existing purchasing regulations unless such commodities be in conformity with the standards and specifications set forth in the purchasing regulations and unless the price thereof does not exceed the maximum fair price established by such purchasing regulations. The Office of Purchasing, Travel and Fleet Management shall furnish to any county or municipality or other local public agency of the state requesting same, copies of purchasing regulations adopted by the Office of Purchasing, Travel and Fleet Management and any amendments, changes or eliminations of same that may be made from time to time.

(b) The Office of Purchasing, Travel and Fleet Management may adopt purchasing regulations governing the use of credit cards, procurement cards and purchasing club membership cards to be used by state agencies, governing authorities of counties and municipalities, school districts and the Chickasawhay Natural Gas District. Use of the cards shall be in strict compliance with the regulations promulgated by the office. Any

amounts due on the cards shall incur interest charges as set forth in Section 31-7-305 and shall not be considered debt.

(c) Pursuant to the provision of Section 37-61-33(3), the Office of Purchasing, Travel and Fleet Management of the Department of Finance and Administration is authorized to issue procurement cards to all public school district classroom teachers and other necessary direct support personnel at the beginning of the school year for the purchase of instructional supplies using Educational Enhancement Funds. The cards will be issued in equal amounts per teacher determined by the total number of qualifying personnel and the then current state appropriation for classroom instructional supplies under the Education Enhancement Fund. All purchases shall be in accordance with state law and teachers are responsible for verification of capital asset requirements when pooling monies to purchase equipment. The cards will expire on a predetermined date at the end of each school year. All unexpended amounts will be carried forward, to be combined with the following year's instructional supply fund allocation, and reallocated for the following year. The Department of Finance and Administration is authorized to loan any start-up funds at the beginning of the school year to fund this procurement system for instructional supplies with loan repayment being made from sales tax receipts earmarked for the Education Enhancement Fund.

(d) In a sale of goods or services, the seller shall not impose a surcharge on a buyer who uses a state-issued credit

card, procurement card, travel card, or fuel card. The Department of Finance and Administration shall have exclusive jurisdiction to enforce and adopt rules relating to this paragraph. Any rules adopted under this paragraph shall be consistent with federal laws and regulations governing credit card transactions described by this paragraph. This paragraph does not create a cause of action against an individual for a violation of this paragraph.

(2) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, purchasing regulations governing the purchase of unmarked vehicles to be used by the Bureau of Narcotics and Department of Public Safety in official investigations pursuant to Section 25-1-87. Such regulations shall ensure that purchases of such vehicles shall be at a fair price and shall take into consideration the peculiar needs of the Bureau of Narcotics and Department of Public Safety in undercover operations.

(3) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, regulations governing the certification process for certified purchasing offices, including the Mississippi Purchasing Certification Program, which shall be required of all purchasing agents at state agencies. Such regulations shall require entities desiring to be classified as certified purchasing offices to submit applications and applicable documents on an annual basis, and in the case of a state agency purchasing office, to have one

hundred percent (100%) participation and completion by purchasing agents in the Mississippi Purchasing Certification Program, at which time the Office of Purchasing, Travel and Fleet Management may provide the governing entity with a certification valid for one (1) year from the date of issuance. The Office of Purchasing, Travel and Fleet Management shall set a fee in an amount that recovers its costs to administer the Mississippi Purchasing Certification Program, which shall be assessed to the participating state agencies.

(4) The Office of Purchasing, Travel and Fleet Management shall adopt purchasing regulations authorizing rural water associations to purchase at the state contract price afforded to agencies and governing authorities under this chapter.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 273

Description: Municipal judges; authorize to hold court outside municipal boundaries that is more than within a one-mile radius of municipality to accept pleas.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/27	(H) Referred To Municipalities
2	02/25	(H) Title Suff Do Pass
3	03/04	(H) Passed {Vote}
4	03/05	(H) Transmitted To Senate
5	05/12	(S) Referred To Municipalities; Judiciary, Division A
6	06/01	(S) DR - TSDP: MU To JA
7	06/04	(S) Title Suff Do Pass
8	06/12	(S) Passed {Vote}
9	06/15	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/18	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 021-0023-0007

----- Additional Information -----

House Committee: Municipalities
Senate Committee: Municipalities, Judiciary, Division A

Principal Author: Zuber
Additional Authors: Foster

Title: AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A MUNICIPAL COURT JUDGE IS ACCEPTING A PLEA FROM A DEFENDANT AT AN ADULT DETENTION CENTER OF THE COUNTY, THEN THE JUDGE MAY HOLD COURT OUTSIDE THE BOUNDARIES OF THE MUNICIPALITY MORE THAN WITHIN A ONE-MILE RADIUS OF THE MUNICIPALITY FOR THE PURPOSE OF ACCEPTING SUCH PLEA; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 273

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Zuber, Foster To: Municipalities

HOUSE BILL NO. 273

AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A MUNICIPAL COURT JUDGE IS ACCEPTING A PLEA FROM A DEFENDANT AT AN ADULT DETENTION CENTER OF THE COUNTY, THEN THE JUDGE MAY HOLD COURT OUTSIDE THE BOUNDARIES OF THE MUNICIPALITY MORE THAN WITHIN A ONE-MILE RADIUS OF THE MUNICIPALITY FOR THE PURPOSE OF ACCEPTING SUCH PLEA; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 21-23-7, Mississippi Code of 1972, is amended as follows:

21-23-7. (1) The municipal judge shall hold court in a public building designated by the governing authorities of the municipality, or may hold court in an adult detention center as provided under this subsection, and may hold court every day except Sundays and legal holidays if the business of the municipality so requires; provided, however, the municipal judge may hold court outside the boundaries of the municipality but not more than within a sixty-mile radius of the municipality to handle preliminary matters and criminal matters such as initial appearances and felony preliminary hearings. The municipal judge may hold court outside the boundaries of the municipality but not

more than within a one-mile radius of the municipality for any purpose; however, a municipal judge may hold court outside the boundaries of the municipality more than within a one-mile radius of the municipality when accepting a plea of a defendant at an adult detention center within the county. The municipal judge shall have the jurisdiction to hear and determine, without a jury and without a record of the testimony, all cases charging violations of the municipal ordinances and state misdemeanor laws made offenses against the municipality and to punish offenders therefor as may be prescribed by law. Except as otherwise provided by law, criminal proceedings shall be brought by sworn complaint filed in the municipal court. Such complaint shall state the essential elements of the offense charged and the statute or ordinance relied upon. Such complaint shall not be required to conclude with a general averment that the offense is against the peace and dignity of the state or in violation of the ordinances of the municipality. He may sit as a committing court in all felonies committed within the municipality, and he shall have the power to bind over the accused to the grand jury or to appear before the proper court having jurisdiction to try the same, and to set the amount of bail or refuse bail and commit the accused to jail in cases not bailable. The municipal judge is a conservator of the peace within his municipality. He may conduct preliminary hearings in all violations of the criminal laws of this state occurring within the municipality, and any person

arrested for a violation of law within the municipality may be brought before him for initial appearance. The municipal court shall have jurisdiction of any case remanded to it by a circuit court grand jury. The municipal court shall have civil jurisdiction over actions filed pursuant to and as provided in Title 93, Chapter 21, Mississippi Code of 1972, the Protection from Domestic Abuse Act.

(2) In the discretion of the court, where the objects of justice would be more likely met, as an alternative to imposition or payment of fine and/or incarceration, the municipal judge shall have the power to sentence convicted offenders to work on a public service project where the court has established such a program of public service by written guidelines filed with the clerk for public record. Such programs shall provide for reasonable supervision of the offender and the work shall be commensurate with the fine and/or incarceration that would have ordinarily been imposed. Such program of public service may be utilized in the implementation of the provisions of Section 99-19-20, and public service work thereunder may be supervised by persons other than the sheriff.

(3) The municipal judge may solemnize marriages, take oaths, affidavits and acknowledgments, and issue orders, subpoenas, summonses, citations, warrants for search and arrest upon a finding of probable cause, and other such process under seal of the court to any county or municipality, in a criminal case, to be

executed by the lawful authority of the county or the municipality of the respondent, and enforce obedience thereto. The absence of a seal shall not invalidate the process.

(4) When a person shall be charged with an offense in municipal court punishable by confinement, the municipal judge, being satisfied that such person is an indigent person and is unable to employ counsel, may, in the discretion of the court, appoint counsel from the membership of The Mississippi Bar residing in his county who shall represent him. Compensation for appointed counsel in criminal cases shall be approved and allowed by the municipal judge and shall be paid by the municipality. The maximum compensation shall not exceed Two Hundred Dollars ($200.00) for any one (1) case. The governing authorities of a municipality may, in their discretion, appoint a public defender(s) who must be a licensed attorney and who shall receive a salary to be fixed by the governing authorities.

(5) The municipal judge of any municipality is hereby authorized to suspend the sentence and to suspend the execution of the sentence, or any part thereof, on such terms as may be imposed by the municipal judge. However, the suspension of imposition or execution of a sentence hereunder may not be revoked after a period of two (2) years. The municipal judge shall have the power to establish and operate a probation program, dispute resolution program and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice.

Any such program shall be established by the court with written policies and procedures filed with the clerk of the court for public record. Subsequent to original sentencing, the municipal judge, in misdemeanor cases, is hereby authorized to suspend sentence and to suspend the execution of a sentence, or any part thereof, on such terms as may be imposed by the municipal judge, if (a) the judge or his or her predecessor was authorized to order such suspension when the sentence was originally imposed; and (b) such conviction (i) has not been appealed; or (ii) has been appealed and the appeal has been voluntarily dismissed.

(6) Upon prior notice to the municipal prosecuting attorney and upon a showing in open court of rehabilitation, good conduct for a period of two (2) years since the last conviction in any court and that the best interest of society would be served, the court may, in its discretion, order the record of conviction of a person of any or all misdemeanors in that court expunged, and upon so doing the said person thereafter legally stands as though he had never been convicted of the said misdemeanor(s) and may lawfully so respond to any query of prior convictions. This order of expunction does not apply to the confidential records of law enforcement agencies and has no effect on the driving record of a person maintained under Title 63, Mississippi Code of 1972, or any other provision of said Title 63.

(7) Notwithstanding the provisions of subsection (6) of this section, a person who was convicted in municipal court of a

misdemeanor before reaching his twenty-third birthday, excluding conviction for a traffic violation, and who is a first offender, may utilize the provisions of Section 99-19-71, to expunge such misdemeanor conviction.

(8) In the discretion of the court, a plea of nolo contendere may be entered to any charge in municipal court. Upon the entry of a plea of nolo contendere the court shall convict the defendant of the offense charged and shall proceed to sentence the defendant according to law. The judgment of the court shall reflect that the conviction was on a plea of nolo contendere. An appeal may be made from a conviction on a plea of nolo contendere as in other cases.

(9) Upon execution of a sworn complaint charging a misdemeanor, the municipal court may, in its discretion and in lieu of an arrest warrant, issue a citation requiring the appearance of the defendant to answer the charge made against him. On default of appearance, an arrest warrant may be issued for the defendant. The clerk of the court or deputy clerk may issue such citations.

(10) The municipal court shall have the power to make rules for the administration of the court's business, which rules, if any, shall be in writing filed with the clerk of the court and shall include the enactment of rules related to the court's authority to issue domestic abuse protection orders pursuant to Section 93-21-1 et seq.

(11) The municipal court shall have the power to impose punishment of a fine of not more than One Thousand Dollars ($1,000.00) or six (6) months imprisonment, or both, for contempt of court. The municipal court may have the power to impose reasonable costs of court, not in excess of the following:

Dismissal of any affidavit, complaint or charge in municipal court.....$ 50.00

Suspension of a minor's driver's license in lieu of conviction.....$ 50.00

Service of scire facias or return "not found".....$ 20.00

Causing search warrant to issue or causing prosecution without reasonable cause or refusing to cooperate after initiating action.....$ 100.00

Certified copy of the court record.....$ 5.00

Service of arrest warrant for failure to answer citation or traffic summons.....$ 25.00

Jail cost per day - actual jail cost paid by the municipality but not to exceed..... $ 35.00

Service of court documents related to the filing of a petition or issuance of a protection from domestic abuse order under Title 93, Chapter 21, Mississippi Code of 1972 .....$ 25.00

Any other item of court cost.....$ 50.00

No filing fee or such cost shall be imposed for the bringing of an action in municipal court.

(12) A municipal court judge shall not dismiss a criminal case but may transfer the case to the justice court of the county if the municipal court judge is prohibited from presiding over the case by the Canons of Judicial Conduct and provided that venue and jurisdiction are proper in the justice court. Upon transfer of any such case, the municipal court judge shall give the municipal court clerk a written order to transmit the affidavit or complaint and all other records and evidence in the court's possession to the justice court by certified mail or to instruct the arresting officer to deliver such documents and records to the justice court. There shall be no court costs charged for the transfer of the case to the justice court.

(13) A municipal court judge shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped, there was no disposition of such case or the person was found not guilty at trial.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 274

Description: HELP Grant Program; align curriculum with changes for college preparatory as required by IHL.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/27	(H) Referred To Education
2	02/25	(H) Title Suff Do Pass
3	03/10	(H) Passed {Vote}
4	03/11	(H) Transmitted To Senate
5	05/11	(S) Referred To Universities and Colleges
6	06/03	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 037-0106-0075

----- Additional Information -----

House Committee: Education
Senate Committee: Universities and Colleges

Principal Author: Beckett

Title: AN ACT TO AMEND SECTION 37-106-75, MISSISSIPPI CODE OF 1972, TO REVISE PROVISIONS OF THE HIGHER EDUCATION LEARNING PLAN GRANT PROGRAM TO ALIGN THE CURRICULUM REQUIREMENTS WITH CHANGES IN THE COLLEGE PREPARATORY CURRICULUM REQUIRED BY THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING BY REMOVING THE SPECIFIC NUMBER OF UNITS REQUIRED FOR ADMISSION TO A STATE UNIVERSITY; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 274

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Beckett To: Education

HOUSE BILL NO. 274

AN ACT TO AMEND SECTION 37-106-75, MISSISSIPPI CODE OF 1972, TO REVISE PROVISIONS OF THE HIGHER EDUCATION LEARNING PLAN GRANT PROGRAM TO ALIGN THE CURRICULUM REQUIREMENTS WITH CHANGES IN THE COLLEGE PREPARATORY CURRICULUM REQUIRED BY THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING BY REMOVING THE SPECIFIC NUMBER OF UNITS REQUIRED FOR ADMISSION TO A STATE UNIVERSITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-106-75, Mississippi Code of 1972, is amended as follows:

37-106-75. (1) The Legislature hereby establishes the Higher Education Legislative Plan Grant Program.

(2) For purposes of this section:

(a) "Institution of higher education" shall mean any state institution of higher learning or public community or junior college, or any regionally accredited, state-approved, nonprofit two-year or four-year college or university located in the State of Mississippi approved by the board.

(b) "Tuition" shall mean the semester or trimester or term charges and all required fees imposed by an institution of

higher education as a condition of enrollment by all students. However, for a two-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the two-year public institutions of higher education defined in paragraph (a), and for a four-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the four-year public institutions of higher education defined in paragraph (a).

(3) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree who apply for the assistance under the program and who meet all of the following qualifications:

(a) Resident of the State of Mississippi. Resident status for the purpose of receiving assistance under this chapter shall be determined in the same manner as resident status for tuition purposes in Sections 37-103-1 through 37-103-29, with the exception of Section 37-103-17;

(b) Graduate from high school within the two (2) years preceding the application with a minimum cumulative grade point average of 2.5 calculated on a 4.0 scale;

(c) Successfully complete, as certified by the high school counselor or other school official, * * * high school course work which includes the College Preparatory Curriculum

(CPC) approved by the Board of Trustees of State Institutions of Higher Learning and required for admission into a state university * * *;

(d) Have a composite score on the American College Test of at least twenty (20) on the 1989 version or an equivalent concordant value on an enhanced version of such test;

(e) Have no criminal record, except for misdemeanor traffic violations; and

(f) Be in financial need.

(4) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree or associate degree who apply for assistance under the program and who meet the qualifications in paragraphs (a), (e) and (f) of subsection (3) but who fail to meet one (1) of the particular requirements established by paragraph (b), (c) or (d) of subsection (3) by an amount of ten percent (10%) or less.

(5) To maintain continued state payment of tuition, once enrolled in an institution of higher education, a student shall meet all of the following requirements:

(a) Make steady academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in each academic period requiring such enrollment;

(b) Maintain continuous enrollment for not less than two (2) semesters or three (3) quarters in each successive academic year, unless granted an exception for cause by the board;

(c) Have a cumulative grade point average of at least 2.5 calculated on a 4.0 scale at the end of the first academic year and thereafter maintain such a cumulative grade point average as evaluated at the end of each academic year;

(d) Have no criminal record, except for misdemeanor traffic violations; and

(e) Be in financial need.

(6) The provisions of this section shall be administered by the board. The board may promulgate rules for all matters necessary for the implementation of this section. By rule, the board shall provide for:

(a) A mechanism for informing all students of the availability of the assistance provided under this section early enough in their schooling that a salutary motivational effect is possible;

(b) Applications, forms, financial audit procedures, eligibility and other program audit procedures and other matters related to efficient operation;

(c) A procedure for waiver through the 1996-1997 academic year of the program eligibility requirement for successful completion of a specified core curriculum upon proper documentation by the applicant that failure to comply with the

requirement is due solely to the fact that the required course or courses were not available to the applicant at the school attended.

(7) An applicant shall be found to be in financial need if:

(a) The family has one (1) child under the age of twenty-one (21), and the annual adjusted gross income of the family is less than Forty-two Thousand Five Hundred Dollars ($42,500.00); or

(b) The family has an annual adjusted gross income of less than Forty-two Thousand Five Hundred Dollars ($42,500.00) plus Five Thousand Dollars ($5,000.00) for each additional child under the age of twenty-one (21).

The annual adjusted gross income of the family shall be verified by completion of the Free Application for Federal Student Aid (FAFSA) and the completion of the verification process if the applicant is selected for it.

As used in this subsection, the term "family" for an unemancipated applicant means the applicant, the applicant's parents and other children under age twenty-one (21) of the applicant's parents. The term "family" for an emancipated applicant means the applicant, an applicant's spouse, and any children under age twenty-one (21) of the applicant and spouse.

(8) No student shall receive a grant under this section in an amount greater than the tuition charged by the school. The

student must apply for a federal grant prior to receiving state funds.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 326

Description: Cottage food operation; increase maximum annual gross sales to $35,000.00 and authorize to advertise over the Internet.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/28	(H) Referred To Agriculture
2	02/11	(H) Title Suff Do Pass
3	02/12	(H) Passed {Vote}
4	02/13	(H) Transmitted To Senate
5	02/14	(S) Referred To Agriculture; Finance
6	06/04	(S) DR - TSDP: AG To FI
7	06/09	(S) Title Suff Do Pass
8	06/16	(S) Passed {Vote}
9	06/17	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/18	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 075-0029-0951

----- Additional Information -----

House Committee: Agriculture
Senate Committee: Agriculture, Finance

Principal Author: Eure
Additional Authors: Eubanks, McLean

Title: AN ACT TO AMEND SECTION 75-29-951, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM ANNUAL GROSS SALES FOR A COTTAGE FOOD OPERATION FROM TWENTY THOUSAND DOLLARS TO THIRTY-FIVE THOUSAND DOLLARS TO BE EXEMPT FROM FOOD ESTABLISHMENT PERMIT FEES; TO AUTHORIZE A COTTAGE FOOD OPERATION TO ADVERTISE COTTAGE FOOD PRODUCTS OVER THE INTERNET, INCLUDING THROUGH SOCIAL MEDIA; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Eure, Eubanks, McLean To: Agriculture

HOUSE BILL NO. 326

AN ACT TO AMEND SECTION 75-29-951, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM ANNUAL GROSS SALES FOR A COTTAGE FOOD OPERATION FROM TWENTY THOUSAND DOLLARS TO THIRTY-FIVE THOUSAND DOLLARS TO BE EXEMPT FROM FOOD ESTABLISHMENT PERMIT FEES; TO AUTHORIZE A COTTAGE FOOD OPERATION TO ADVERTISE COTTAGE FOOD PRODUCTS OVER THE INTERNET, INCLUDING THROUGH SOCIAL MEDIA; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-29-951, Mississippi Code of 1972, is amended as follows:

75-29-951. (1) (a) A cottage food operation must comply with the applicable requirements of this section but is exempt from the permitting requirements of Section 41-3-18 if the cottage food operation complies with this section and has annual gross sales of cottage food products that do not exceed * * * Thirty-five Thousand Dollars ($35,000.00).

(b) For purposes of this subsection, a cottage food operation's annual gross sales include all sales of cottage food products at any location, regardless of the types of products sold or the number of persons involved in the operation. A cottage

food operation must provide the department, upon request, with written documentation to verify the operation's annual gross sales.

(2) A cottage food operation may not sell * * * cottage food products over the Internet, by mail order, or at wholesale or to a retail establishment; however, this does not prohibit the advertising of cottage food products over the Internet, including through social media. Cottage food products are nonpotentially hazardous food products as defined by the department.

(3) A cottage food operation may only sell cottage food products which are prepackaged with a label affixed that contains the following information:

(a) The name and address of the cottage food operation * * *;

(b) The name of the cottage food product * * *;

(c) The ingredients of the cottage food product, in descending order of predominance by weight * * *;

(d) The net weight or net volume of the cottage food product * * *;

(e) Allergen information as specified by federal labeling requirements * * *;

(f) * * * Appropriate nutritional information as specified by federal labeling requirements, if any nutritional claim is made * * *; and

(g) The following statement printed in at least ten-point type in a color that provides a clear contrast to the background of the label: "Made in a cottage food operation that is not subject to Mississippi's food safety regulations."

(4) This section does not exempt a cottage food operation from any federal tax law, rule, regulation, or certificate that applies to all cottage food operations.

(5) (a) The department may investigate any complaint * * * that alleges that a cottage food operation has violated an applicable provision of this section or rule adopted under this section.

(b) Only upon receipt of a complaint, the department's authorized officer or employee may enter and inspect the premises of a cottage food operation to determine compliance with this section and department rules. A cottage food operation's refusal to permit the department's authorized officer or employee entry to the premises or to conduct the inspection is grounds for disciplinary action pursuant to Section 41-3-59.

(6) This section does not apply to a person operating under a food permit issued pursuant to Section 41-3-18.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 408

Description: Credit for reinsurance; provide requirements for.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/03	(H) Referred To Insurance
2	02/11	(H) Title Suff Do Pass
3	02/12	(H) Passed {Vote}
4	02/13	(H) Transmitted To Senate
5	02/18	(S) Referred To Insurance
6	06/03	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 083-0019-0151, A 083-0019-0157

----- Additional Information -----

House Committee: Insurance
Senate Committee: Insurance

Principal Author: Chism

Title: AN ACT TO AMEND SECTIONS 83-19-151 AND 83-19-157, MISSISSIPPI CODE OF 1972, TO PROVIDE A DEFINITION OF A RECIPROCAL JURISDICTION; TO PROVIDE REQUIREMENTS FOR CREDIT FOR REINSURANCE; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 408

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Chism To: Insurance

HOUSE BILL NO. 408

AN ACT TO AMEND SECTIONS 83-19-151 AND 83-19-157, MISSISSIPPI CODE OF 1972, TO PROVIDE A DEFINITION OF A RECIPROCAL JURISDICTION; TO PROVIDE REQUIREMENTS FOR CREDIT FOR REINSURANCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-19-151, Mississippi Code of 1972, is amended as follows:

83-19-151. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (a), (b), (c), (d), (e) * * *, (f) or (g) of this section; provided further that the commissioner may adopt by regulation pursuant to Section 83-19-157 specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in Section 83-19-157, and/or the circumstances pursuant to which credit will be reduced or eliminated. Credit shall be allowed under paragraph (a), (b) or (c) of this section only as respects cessions of those

kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under paragraph (c) or (d) of this section only if the applicable requirements of paragraph * * * (h) have been satisfied.

(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. In order to be eligible for accreditation, a reinsurer must:

(i) Files with the commissioner evidence of its submission to this state's jurisdiction;

(ii) Submits to this state's authority to examine its books and records;

(iii) Be licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(iv) Files annually with the commissioner a copy of its annual statement filed with the Insurance Department of its state of domicile and a copy of its most recent audited financial statement; and

(v) Demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than Twenty Million Dollars ($20,000,000.00) and its accreditation has not been denied by the commissioner within ninety (90) days after submission of its application.

(c) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

1. Maintains a surplus as regards policyholders in an amount not less than Twenty Million Dollars ($20,000,000.00); and

2. Submits to the authority of this state to examine its books and records.

(ii) The requirement of item 1 of this paragraph (c)(i) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(d) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in paragraph (b) of Section 83-19-155, for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination.

(ii) 1. Credit for reinsurance shall not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

a. The commissioner of the state where the trust is domiciled; or

b. The commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

2. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

3. The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year the trustee of the trust shall report to the commissioner in writing the balance of the trust and listing the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

(iii) The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance

ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than Twenty Million Dollars ($20,000,000.00) except as provided in item 2 of this paragraph (d)(iii).

2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

3. a. In the case of a group including incorporated and individual unincorporated underwriters:

A. For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

B. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of Sections 83-19-151 through 83-19-157, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

C. In addition to these trusts, the group shall maintain in trust a trusteed surplus of which One Hundred Million Dollars ($100,000,000.00) shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account; and

b. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

c. Within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(iv) In the case of a group of incorporated underwriters under common administration, the group shall:

1. Have continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation;

2. Maintain aggregate policyholders' surplus of at least Ten Billion Dollars ($10,000,000,000.00);

3. Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

4. In addition, maintain a joint trusteed surplus of which One Hundred Million Dollars ($100,000,000.00) shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and

5. Within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this subsection.

(i) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

1. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subparagraph (iii) of this paragraph (e);

2. The assuming insurer must maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to regulation;

3. The assuming insurer must maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the commissioner pursuant to regulation;

4. The assuming insurer must agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

5. The assuming insurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and

6. The assuming insurer must satisfy any other requirements for certification deemed relevant by the commissioner.

(ii) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of subparagraph (i) of this paragraph (e):

1. The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of

its members, in an amount determined by the commissioner to provide adequate protection;

2. The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

3. Within ninety (90) days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(iii) The commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

1. In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness

of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

2. A list of qualified jurisdictions shall be published through the NAIC Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.

3. United States jurisdictions that meet the requirement for accreditation under the NAIC Financial Regulation Standards and Accreditation Program shall be recognized as qualified jurisdictions.

4. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the

commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(iv) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to regulation. The commissioner shall publish a list of all certified reinsurers and their ratings.

(v) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with its rating, as specified in regulations promulgated by the commissioner.

1. In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of Section 83-19-153 or in a multibeneficiary trust in accordance with paragraph (d) of this subsection, except as otherwise provided in this subsection.

2. If a certified reinsurer maintains a trust to fully secure its obligations subject to paragraph (d) of this subsection, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or

renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to paragraph (d) of this subsection. It shall be a condition to the grant of certification under this paragraph (e) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

3. The minimum trusteed surplus requirements provided in paragraph (d) of this subsection are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust shall maintain a minimum trusteed surplus of Ten Million Dollars ($10,000,000.00).

4. With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

5. For purposes of this subsection, a certified reinsurer whose certification has been terminated for

any reason shall be treated as a certified reinsurer required to secure one hundred percent (100%) of its obligations.

6. As used in this subsection, the term "terminated" refers to revocation, suspension, voluntary surrender and inactive status.

7. If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(vi) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.

(vii) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(f) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below.

1. The assuming insurer must have its head office or be domiciled in, as applicable, and be licensed in a Reciprocal Jurisdiction. A "Reciprocal Jurisdiction" is a jurisdiction that meets one (1) of the following:

a. A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. For purposes of this paragraph (f), a "covered agreement" is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

b. A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

c. A qualified jurisdiction, as determined by the commissioner pursuant to Section

83-19-151(e)(iii) which is not otherwise described in item 1.a. or 1.b. above and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in regulation.

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be determined by the commissioner pursuant to regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain on an ongoing basis minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be determined by the commissioner pursuant to regulation.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, to be determined by the commissioner pursuant to regulation. If the assuming reinsurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain on an ongoing basis a minimum solvency or capital ratio in the Reciprocal Jurisdiction where the assuming reinsurer has its head office or is domiciled, as applicable, and is also licensed.

4. The assuming insurer must agree and provide adequate assurance to the commissioner, in a form specified by the commissioner pursuant to regulation, as follows:

a. The assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in items 2. and 3. of this subparagraph (i), or if any regulatory action is taken against it for serious noncompliance with applicable law;

b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner's jurisdiction. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

d. Each reinsurance agreement must include a provision requiring the assuming reinsurer to provide

security in an amount equal to one hundred percent (100%) of the assuming reinsurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming reinsurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of Section 83-19-151(e) and Section 83-19-153 and as specified by the commissioner's regulation.

5. The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, certain documentation to the commissioner as specified by the commissioner in regulation.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in regulation.

7. The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction, that the assuming reinsurer complies with the requirements set forth in items 2. and 3.

8. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(ii) The commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

1. A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The commissioner's list shall include any Reciprocal Jurisdiction as defined under Section 83-19-151(f)(i)1.a. and b. and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions in accordance with criteria to be developed under regulations issued by the commissioner.

2. The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination

that the jurisdiction no longer meets the requirements of a Reciprocal Jurisdiction in accordance with a process set forth in regulations issued by the commissioner, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Section 83-19-151(f)(i)1.a. and b. Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to Section 83-19-151.

(iii) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this paragraph (f) and to which cessions shall be granted credit in accordance with this paragraph (f). The commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under item (i)4. of this paragraph (f) and complies with any additional requirements that the commissioner may impose by regulation, except to the extent that they conflict with an applicable covered agreement.

(iv) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this paragraph (f), the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this

paragraph (f) in accordance with procedures set forth in regulation.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with Section 83-19-153.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of Section 83-19-153.

(v) If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(vi) Nothing in this paragraph (f) shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in

that reinsurance agreement, except as expressly prohibited by this Section 83-19-151 or other applicable law or regulation.

(vii) Credit may be taken under this paragraph (f) only for reinsurance agreements entered into, amended, or renewed on or after the effective date of this act, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to Section 83-19-151(f)(i), and (ii) the effective date of the new reinsurance agreement, amendment or renewal.

1. This subparagraph (vii) does not alter or impair a ceding insurer's right to take credit for reinsurance to the extent that credit is not available under this paragraph (f), as long as the reinsurance qualifies for credit under any other applicable provision of Section 83-19-151.

2. Nothing in this paragraph (f) shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

3. Nothing in this paragraph (f) shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(* * *g) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), (b), (c), (d), * * *, (e) or (f) of this subsection,

but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(* * *h) If the assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in this state, the credit permitted by paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(i) 1. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

2. To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding insurer.

(ii) This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(* * *i) If the assuming insurer does not meet the requirements of paragraph (a), (b), * * * (c) or (f) of this subsection the credit permitted by paragraph (d) or (e) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(i) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (d)(iii) of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(iii) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or

part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(iv) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(* * *j) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(i) The commissioner must give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the commissioner's order on hearing, unless:

1. The reinsurer waives its right to hearing;

2. The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under paragraph (e)(vi) of this subsection; or

3. The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(ii) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 83-19-153. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with paragraph (e)(v) of this subsection or Section 83-19-153.

(* * *k) Concentration risk.

(i) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within thirty (30) days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent (50%) of the domestic ceding insurer's last-reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(ii) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within thirty (30) days after ceding

to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent (20%) of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

SECTION 2. Section 83-19-157, Mississippi Code of 1972, is amended as follows:

83-19-157. (1) The commissioner may adopt rules and regulations implementing the provisions of Sections 83-19-151 through 83-19-157.

(2) The commissioner is further authorized to adopt rules and regulations applicable to reinsurance arrangements described in paragraph (a) of this subsection (2).

(a) A regulation adopted pursuant to this subsection (2) may apply only to reinsurance relating to:

(i) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(ii) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(iii) Variable annuities with guaranteed death or living benefits;

(iv) Long-term care insurance policies; or

(v) Such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

(b) A regulation adopted pursuant to paragraph (a)(i) or (ii) of this subsection (2) may apply to any treaty containing (i) policies issued on or after January 1, 2015, and/or (ii) policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(c) A regulation adopted pursuant to this subsection (2) may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the Valuation Manual adopted by the NAIC under Section 83-7-23(11)(b)(i), including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.

(d) A regulation adopted pursuant to this subsection (2) shall not apply to cessions to an assuming insurer that:

(i) Meets the conditions set forth in Section 83-19-151(f) in this state or, if this state has not adopted provisions substantially equivalent to Section 83-19-151(f), the assuming insurer is operating in accordance with provisions substantially equivalent to Section 83-19-151(f) in a minimum of five (5) other states;

(* * *ii) Is certified in this state or, if this state has not adopted provisions substantially equivalent to Section 83-19-151(e), certified in a minimum of five (5) other states; or

(* * *iii) Maintains at least Two Hundred Fifty Million Dollars ($250,000,000.00) in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices; and is:

1. Licensed in at least twenty-six (26) states; or

2. Licensed in at least ten (10) states, and licensed or accredited in a total of at least thirty-five (35) states.

(e) The authority to adopt regulations pursuant to this subsection (2) does not limit the commissioner's general authority to adopt regulations pursuant to subsection (1) of this section.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 444

Description: Municipal menaced property; make certain clarifying revisions regarding.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/03	(H) Referred To Judiciary A
2	02/27	(H) Title Suff Do Pass As Amended
3	03/10	(H) Amended
4	03/10	(H) Passed As Amended {Vote}
5	03/12	(H) Transmitted To Senate
6	05/11	(S) Referred To Municipalities
7	06/01	(S) Title Suff Do Pass
8	06/10	(S) Passed {Vote}
9	06/11	(S) Returned For Enrolling
10	06/15	(H) Enrolled Bill Signed
11	06/16	(S) Enrolled Bill Signed
12	06/22	Approved by Governor

Amendments:

[H] Committee Amendment No 1 ***Adopted*** Voice Vote

Code Section: A 021-0019-0011

----- Additional Information -----

House Committee: Judiciary A
Senate Committee: Municipalities

Principal Author: McGee

Title: AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN A MUNICIPAL GOVERNING AUTHORITY PROVIDES NOTICE OF A HEARING TO A PROPERTY OWNER TO DETERMINE IF THE OWNER'S PROPERTY IS A MENACE, SUCH NOTICE IS NOT REQUIRED TO BE MAILED TO THE ADDRESS OF THE SUBJECT PROPERTY IF THE LAND OR STRUCTURE ON THE PROPERTY IS APPARENTLY VACANT BUT NOTICE SHALL CONTINUE TO BE PROVIDED TO THE ADDRESS WHERE THE AD VALOREM

TAX NOTICE IS SENT; TO INCREASE FROM ONE YEAR TO TWO YEARS THE TIME PERIOD THAT A GOVERNING AUTHORITY MAY REENTER A PROPERTY FOR CLEANING, WITHOUT CONDUCTING FURTHER HEARINGS, ONCE AN ADJUDICATION IS MADE THAT THE PROPERTY IS IN NEED OF CLEANING AND CERTAIN OTHER NOTICE IS GIVEN; TO PROVIDE THAT UPON WRITTEN AUTHORITY OF THE SECRETARY OF STATE'S OFFICE FOR STATE-OWNED PROPERTIES, A MUNICIPALITY MAY FORGO THE NOTIFICATION PROCESS AND MAY PROCEED TO CLEAN MENACED STATE-OWNED PROPERTY; TO PROVIDE THAT PENALTIES SHALL NOT BE ASSESSED AGAINST THE STATE FOR CLEANING STATE-OWNED PROPERTIES; TO PROVIDE THAT FOR MENACED PROPERTY THAT HAS BEEN CLEANED WITH CERTAIN MINIMUM COSTS AND THE PROPERTY IS LESS THAN ONE ACRE AND IS LOCATED WITHIN A MUNICIPALITY THAT HAS A POPULATION OVER 25,000, THE GOVERNING AUTHORITY MAY IMPOSE A PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS OR ONE HUNDRED PERCENT OF THE ACTUAL COST OF CLEANING THE PROPERTY; TO PROVIDE THAT LIENS PERTAINING TO THE COST AND ANY PENALTIES FOR THE CLEANING OF MENACED PROPERTY MAY BE ENROLLED BY A MUNICIPALITY IN THE CHANCERY CLERK OF THE COUNTY RATHER THAN THE CIRCUIT CLERK OF THE COUNTY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative McGee To: Judiciary A

HOUSE BILL NO. 444
(As Passed the House)

AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN A MUNICIPAL GOVERNING AUTHORITY PROVIDES NOTICE OF A HEARING TO A PROPERTY OWNER TO DETERMINE IF THE OWNER'S PROPERTY IS A MENACE, SUCH NOTICE IS NOT REQUIRED TO BE MAILED TO THE ADDRESS OF THE SUBJECT PROPERTY IF THE LAND OR STRUCTURE ON THE PROPERTY IS APPARENTLY VACANT BUT NOTICE SHALL CONTINUE TO BE PROVIDED TO THE ADDRESS WHERE THE AD VALOREM TAX NOTICE IS SENT; TO INCREASE FROM ONE YEAR TO TWO YEARS THE TIME PERIOD THAT A GOVERNING AUTHORITY MAY REENTER A PROPERTY FOR CLEANING, WITHOUT CONDUCTING FURTHER HEARINGS, ONCE AN ADJUDICATION IS MADE THAT THE PROPERTY IS IN NEED OF CLEANING AND CERTAIN OTHER NOTICE IS GIVEN; TO PROVIDE THAT UPON WRITTEN AUTHORITY OF THE SECRETARY OF STATE'S OFFICE FOR STATE-OWNED PROPERTIES, A MUNICIPALITY MAY FORGO THE NOTIFICATION PROCESS AND MAY PROCEED TO CLEAN MENACED STATE-OWNED PROPERTY; TO PROVIDE THAT PENALTIES SHALL NOT BE ASSESSED AGAINST THE STATE FOR CLEANING STATE-OWNED PROPERTIES; TO PROVIDE THAT FOR MENACED PROPERTY THAT HAS BEEN CLEANED WITH CERTAIN MINIMUM COSTS AND THE PROPERTY IS LESS THAN ONE ACRE AND IS LOCATED WITHIN A MUNICIPALITY THAT HAS A POPULATION OVER 25,000, THE GOVERNING AUTHORITY MAY IMPOSE A PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS OR ONE HUNDRED PERCENT OF THE ACTUAL COST OF CLEANING THE PROPERTY; TO PROVIDE THAT LIENS PERTAINING TO THE COST AND ANY PENALTIES FOR THE CLEANING OF MENACED PROPERTY MAY BE ENROLLED BY A MUNICIPALITY IN THE CHANCERY CLERK OF THE COUNTY RATHER THAN THE CIRCUIT CLERK OF THE COUNTY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 21-19-11, Mississippi Code of 1972, is amended as follows:

21-19-11. (1) To determine whether property or parcel of land located within a municipality is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community, a governing authority of any municipality shall conduct a hearing, on its own motion, or upon the receipt of a petition signed by a majority of the residents residing within four hundred (400) feet of any property or parcel of land alleged to be in need of the cleaning. Notice shall be provided to the property owner by:

(a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property, except where the land or structure(s) is apparently vacant, and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to be in need of cleaning and at city hall or another place in the municipality where such notices are posted.

Any notice required by this section shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the municipality to reenter the property or parcel of land for a period of * * * two years after final adjudication without any further hearing if notice is posted on the property or parcel of land and at city hall or another place in the

municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the governing authority in conjunction with the hearing required by this section.

If, at such hearing, the governing authority shall adjudicate the property or parcel of land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, abandoned or dilapidated fences, outside toilets, abandoned or dilapidated buildings, slabs, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water therefrom. The governing authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, and/or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the

work or the cost to the municipality of any contract executed by the municipality to have the work done, and administrative costs and legal costs of the municipality. For subsequent cleaning within the one-year period after the date of the hearing at which the property or parcel of land was adjudicated in need of cleaning, upon seven (7) days' notice posted both on the property or parcel of land adjudicated in need of cleaning and at city hall or another place in the municipality where such notices are generally posted, and consistent with the municipality's adjudication as authorized in this subsection (1), a municipality may reenter the property or parcel of land to maintain cleanliness without further notice or hearing no more than six (6) times in any twelve-month period with respect to removing abandoned or dilapidated buildings, slabs, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property, except as otherwise provided in this section for removal of hazardous substances, shall not exceed an aggregate amount of Twenty Thousand Dollars ($20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is more. The aggregate cost of removing hazardous substances will be the actual cost of such removal to the municipality and shall not be subject to the Twenty Thousand Dollars ($20,000.00) limitation provided in

this subsection. The governing authority may assess the same penalty for each time the property or land is cleaned as otherwise provided in this section. The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice. Upon written authority from the Secretary of State's office, for state-owned properties, a municipality may forgo the notification process that is prescribed in this subsection and proceed to clean the properties and assess costs as prescribed in this subsection, except that penalties shall not be assessed against the State of Mississippi.

(2) When the fee or cost to clean property or a parcel of land that is one (1) acre or less does not exceed Two Hundred Fifty Dollars ($250.00), excluding administrative costs, and the property or parcel is located within a municipality having a population over * * * one thousand five hundred (1,500), the governing authority of the municipality may authorize one or more of its employees to determine whether the property or parcel of land is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community and the determination made by the authorized municipal employee shall be set forth and recorded in the minutes of the governing authority. Notice of this determination shall be provided to the property owner by:

(a) United States mail seven (7) days before the date of cleaning of the property or parcel of land mailed to the address of the subject property, except where the land or structure(s) is apparently vacant, and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least seven (7) days before the cleaning of the property or parcel of land and at city hall or another place in the municipality where such notices are posted.

Any notice required by this subsection shall include language that informs the property owner that the appropriate municipal official has determined that the property or parcel of land is a menace to the public health, safety and welfare of the community and in need of cleaning and the municipality is authorized to enter the property for cleaning and that the municipality is further authorized to reenter the property or parcel of land for a period of * * * two (2) years after this cleaning without any further hearing or action if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this subsection shall be recorded in the minutes of the governing authority in conjunction with the determination made by the municipal employee in this subsection (2).

If an authorized municipal employee determines that the condition of property or parcel of land is a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, abandoned or dilapidated fences, outside toilets, abandoned or dilapidated buildings, slabs, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water therefrom. The governing authority shall by resolution adjudicate the actual cost of cleaning the property under this provision, provided the same does not exceed Two Hundred Fifty Dollars ($250.00) and may also impose a penalty not to exceed One Hundred Dollars ($100.00) or one hundred percent (100%) of the actual cost of cleaning the property, whichever is more. The cost and any penalty imposed may become a civil debt against the property owner, and/or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the work or the cost to the municipality of any contract executed by the municipality to have the work done, and additionally may include administrative costs of the municipality not to exceed Fifty Dollars ($50.00). For subsequent cleaning within the one-year period set forth in this

subsection (2), upon seven (7) days' notice posted both on the property or parcel of land adjudicated in need of cleaning and at city hall or another place in the municipality where such notices are generally posted, and consistent with the municipal official's determination as authorized in this subsection (2), a municipality may reenter the property or parcel of land to maintain cleanliness without further notice or hearing under this subsection (2) no more than six (6) times in any twelve-month period with respect to removing abandoned or dilapidated buildings, slabs, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of One Thousand Dollars ($1,000.00) per year under this subsection (2). The governing authority may assess the same actual costs, administrative costs and penalty for each time the property or land is cleaned as otherwise provided in this subsection (2). The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice. Upon written authority from the Secretary of State's office, for state-owned properties, a municipality may forgo the notification process that is prescribed in this subsection and proceed to clean the properties and assess costs as

prescribed in this subsection, except that penalties shall not be assessed against the State of Mississippi. A determination made by an appropriate municipal employee under this subsection (2) that the state or condition of property or a parcel of land is a menace to the public health, safety and welfare of the community shall not subsequently be used to replace a hearing if subsection (1) of this section is later utilized by a municipality when the prerequisites of this subsection (2) are not satisfied.

(3) If the governing authority declares, by resolution, that the cost and any penalty shall be collected as a civil debt, the governing authority may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs, reasonable attorney's fees and interest from the date that the property was cleaned.

(4) (a) If the governing authority declares that the cost and any penalty shall be collected as an assessment against the property, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the * * * chancery clerk of the county as other * * * liens and encumbrances are enrolled, and the tax collector of the municipality shall, upon order of the board of governing authorities, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal

taxes. The lien against the property shall be an encumbrance upon the property and shall follow title of the property.

(b) (i) All assessments levied under the provisions of this section shall be included with municipal ad valorem taxes and payment shall be enforced in the same manner in which payment is enforced for municipal ad valorem taxes, and all statutes regulating the collection of other taxes in a municipality shall apply to the enforcement and collection of the assessments levied under the provisions of this section, including utilization of the procedures authorized under Sections 17-13-9(2) and 27-41-2.

(ii) All assessments levied under the provisions of this section shall become delinquent at the same time municipal ad valorem taxes become delinquent. Delinquencies shall be collected in the same manner and at the same time delinquent ad valorem taxes are collected and shall bear the same penalties as those provided for delinquent taxes. If the property is sold for the nonpayment of an assessment under this section, it shall be sold in the manner that property is sold for the nonpayment of delinquent ad valorem taxes. If the property is sold for delinquent ad valorem taxes, the assessment under this section shall be added to the delinquent tax and collected at the same time and in the same manner.

(5) All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from municipal boards or courts are taken. However, an appeal from a

decision of a municipal officer or official shall be made to the governing authority and such appeal shall be in writing, state the basis for the appeal and be filed with the city clerk no later than seven (7) days from the latest date of notice required under this section.

(6) Nothing contained under this section shall prevent any municipality from enacting criminal penalties for failure to maintain property so as not to constitute a menace to public health, safety and welfare.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 494

Description: County purchases; increase the minimum acquisition costs of items and services for certain purposes.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/04	(H) Referred To County Affairs
2	02/11	(H) Title Suff Do Pass
3	02/12	(H) Passed {Vote}
4	02/13	(H) Transmitted To Senate
5	02/18	(S) Referred To County Affairs
6	02/20	(S) Title Suff Do Pass
7	06/16	(S) Passed {Vote}
8	06/17	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 031-0007-0103, A 031-0007-0119

----- Additional Information -----

House Committee: County Affairs
Senate Committee: County Affairs

Principal Author: Byrd
Additional Authors: Faulkner

Title: AN ACT TO AMEND SECTIONS 31-7-103 AND 31-7-119, MISSISSIPPI CODE OF 1972, TO INCREASE FROM ONE THOUSAND FIVE HUNDRED DOLLARS TO TWO THOUSAND DOLLARS THE MAXIMUM AMOUNT THAT AN ITEM OR SERVICE PURCHASED BY A COUNTY SHALL NOT REQUIRE A REQUISITION TO PURCHASE, PURCHASE ORDER OR A RECEIVING REPORT; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 494

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Byrd, Faulkner To: County Affairs

HOUSE BILL NO. 494

AN ACT TO AMEND SECTIONS 31-7-103 AND 31-7-119, MISSISSIPPI CODE OF 1972, TO INCREASE FROM ONE THOUSAND FIVE HUNDRED DOLLARS TO TWO THOUSAND DOLLARS THE MAXIMUM AMOUNT THAT AN ITEM OR SERVICE PURCHASED BY A COUNTY SHALL NOT REQUIRE A REQUISITION TO PURCHASE, PURCHASE ORDER OR A RECEIVING REPORT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 31-7-103, Mississippi Code of 1972, is amended as follows:

31-7-103. The purchase clerk shall be responsible as hereinafter provided for the purchase and acquisition of all equipment, heavy equipment, machinery, supplies, commodities, materials and services to be acquired for the county from successful bidders or other vendors, as authorized by law. The central purchase system shall comply with the requirements prescribed by the State Department of Audit under the authority of Section 7-7-211 and in accordance with Section 31-7-113, and the purchase clerk shall be responsible for the maintenance of such system. No requisition to purchase, purchase order or receiving report shall be required for the purchase of any item or services

with an acquisition cost of not more than * * * Two Thousand Dollars ($2,000.00) in the aggregate; however, the invoice for every such purchase shall be signed by the department head or his or her designee, or a receipt signed by the person making the purchase shall be attached to the invoice and forwarded to the purchase clerk. No claim based on any such purchase shall be approved except after compliance with the provisions of this section.

SECTION 2. Section 31-7-119, Mississippi Code of 1972, is amended as follows:

31-7-119. (1) Except as provided in subsection (2) of this section, neither the board of supervisors nor any member thereof shall individually purchase, order or receive any equipment, heavy equipment, machinery, supplies, commodities, materials or services for the use or benefit of the county.

(2) In any county in which the board of supervisors is not required to operate on a countywide system of road administration, the prohibition as provided in subsection (1) of this section shall not apply (a) to purchases of not more than * * * Two Thousand Dollars ($2,000.00) in the aggregate; or (b) to the purchase of parts or repair services in emergency situations, which purchases are exempt from bid requirements pursuant to Section 31-7-13(m)(ii) and (iii) * * *. Any supervisor who purchases any item or services in accordance with this subsection (2) shall sign the invoice or receipt and forward it to the

purchase clerk in the manner provided by Section 31-7-103. No claim based on any such purchase shall be approved unless the purchase was made in compliance with the provisions of this subsection.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 597

Description: Department of Revenue; authorize to revise individual income tax forms to allow taxpayer to designate two bank accounts for direct deposit.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/05	(H) Referred To Banking and Financial Services
2	02/25	(H) Title Suff Do Pass
3	03/11	(H) Read the Third Time
4	03/12	(H) Passed {Vote}
5	03/13	(H) Transmitted To Senate
6	05/11	(S) Referred To Business and Financial Institutions
7	06/01	(S) Title Suff Do Pass
8	06/10	(S) Passed {Vote}
9	06/11	(S) Returned For Enrolling
10	06/15	(H) Enrolled Bill Signed
11	06/16	(S) Enrolled Bill Signed
12	06/22	Approved by Governor

Code Section: A 027-0007-0039

----- Additional Information -----

House Committee: Banking and Financial Services
Senate Committee: Business and Financial Institutions

Principal Author: Steverson
Additional Authors: Anthony, Paden, Mickens, Foster

Title: AN ACT TO AMEND SECTION 27-7-39, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF REVENUE TO REVISE THE INDIVIDUAL INCOME TAX FORMS USED FOR RETURNS TO ALLOW AN INDIVIDUAL TAXPAYER TO DESIGNATE UP TO TWO BANK ACCOUNTS FOR DIRECT DEPOSIT OF THE TAXPAYER'S REFUND AND THE ALLOCATION OF THE

TAXPAYER'S REFUND AMOUNT BETWEEN THE DESIGNATED BANK ACCOUNTS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Steverson, Anthony, Paden, Mickens

To: Banking and Financial Services

HOUSE BILL NO. 597

AN ACT TO AMEND SECTION 27-7-39, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF REVENUE TO REVISE THE INDIVIDUAL INCOME TAX FORMS USED FOR RETURNS TO ALLOW AN INDIVIDUAL TAXPAYER TO DESIGNATE UP TO TWO BANK ACCOUNTS FOR DIRECT DEPOSIT OF THE TAXPAYER'S REFUND AND THE ALLOCATION OF THE TAXPAYER'S REFUND AMOUNT BETWEEN THE DESIGNATED BANK ACCOUNTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-7-39, Mississippi Code of 1972, is amended as follows:

27-7-39. (1) Every individual, partnership, corporation, joint-stock company or association or insurance company, being a resident or having a place of business in this state, members of partnerships or employees in whatever capacity acting, including lessees and mortgagors of real and personal property, fiduciaries, employers and all officers and employees of the state, or any political subdivision of the state, having the control, receipt, custody, disposal or payment of salaries, wages or commissions in excess of the exemption of the recipient, and of interest, rent, premiums, annuities, compensations, remunerations, emoluments or

other fixed or determinable annual or periodical gains, profits and income, paid or payable during any year to any taxpayer, shall make complete returns thereof under oath to the commissioner, under such regulations and conditions, in such form and manner and to such extent as may be prescribed by the commissioner, with the approval of the Governor; and, unless such payments are so reported, the commissioner may disallow such payments as deductions for credits in computing the tax of the payer. An exempt organization not subject to tax under the provisions of this article which fails to file the returns required by this section shall be notified of its delinquency and if such returns are not filed and the delinquency persists, the exemption from taxation enjoyed by the organization shall be forfeited.

(2) The commissioner may require material advisors and taxpayers required to notify the Internal Revenue Service of reportable transactions to notify the State Tax Commission of such transactions. The commissioner may require material advisors required to keep lists of reportable transactions for Internal Revenue Service purposes to do likewise for State Tax Commission purposes. The commissioner may specify the manner and method by which such transactions and lists must be reported as well as the scope of the information maintained and reported.

(3) (a) The Department of Revenue shall revise the individual income tax forms used for returns to include one or

more additional lines to allow an individual taxpayer to designate:

(i) Up to two (2) bank accounts for direct deposit of the taxpayer's refund; and

(ii) The allocation of the taxpayer's refund amount between the designated bank accounts.

(b) The provisions of this subsection (3) shall be applicable to all income tax forms used for tax years beginning on or after January 1, 2021.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 632

Description: Riparian owner rights; revise for purposes of state-owned lands on Deer Island.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/06	(H)	Referred To Marine Resources
2	02/26	(H)	Title Suff Do Pass
3	03/10	(H)	Passed {Vote}
4	03/11	(H)	Transmitted To Senate
5	05/12	(S)	Referred To Ports and Marine Resources; Accountability, Efficiency, Transparency
6	06/04	(S)	DR - TSDP: PI To AC
7	06/08	(S)	Title Suff Do Pass
8	06/10	(S)	Passed {Vote}
9	06/11	(S)	Returned For Enrolling
10	06/15	(H)	Enrolled Bill Signed
11	06/16	(S)	Enrolled Bill Signed
12	06/22		Approved by Governor

Code Section: A 049-0015-0009

----- Additional Information -----

House Committee: Marine Resources
Senate Committee: Ports and Marine Resources, Accountability, Efficiency, Transparency

Principal Author: Ladner
Additional Authors: Felsher

Title: AN ACT TO AMEND SECTION 49-15-9, MISSISSIPPI CODE OF 1972, TO REVISE THE RIGHTS OF A RIPARIAN OWNER FOR THE PURPOSES OF STATE-OWNED LANDS ON DEER ISLAND; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 632

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Ladner, Felsher To: Marine Resources

HOUSE BILL NO. 632

AN ACT TO AMEND SECTION 49-15-9, MISSISSIPPI CODE OF 1972, TO REVISE THE RIGHTS OF A RIPARIAN OWNER FOR THE PURPOSES OF STATE-OWNED LANDS ON DEER ISLAND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-15-9, Mississippi Code of 1972, is amended as follows:

49-15-9. The sole right of planting, cultivating in racks or other structures, and gathering oysters and erecting bathhouses and other structures in front of any land bordering on the Gulf of Mexico or Mississippi Sound or waters tributary thereto belongs to the riparian owner and extends not more than seven hundred fifty (750) yards from the shore, except for state-owned lands on Deer Island, which shall be not more than four hundred (400) yards from shore, measuring from the average low water mark, but where the distance from shore to shore is less than fifteen hundred (1500) yards, the owners of either shore may plant and gather to a line equidistant between the two (2) shores, but no person shall plant in any natural channel so as to interfere with navigation, and

such riparian rights shall not include any reef or natural oyster bed and does not extend beyond any channel. A riparian owner shall comply with the Coastal Wetlands Protection Act in exercising the use of these riparian rights. Stakes of such frail materials as will not injure any watercraft may be set up to designate the bounds of the plantation, but navigation shall not be impeded thereby. The riparian owner shall clearly mark such cultivation racks and other structures. The commission may adopt regulations to require that the racks are adequately marked to ensure the safety of users of public waters. Any oysters planted by such riparian owner are the private property of such riparian owner, subject to the right of the commission to adopt reasonable rules and regulations as to the planting and gathering of such oysters. All bathhouses, piers, wharfs, docks and pavilions, or other structures owned by riparian owner are likewise the private property of such owner, who shall be entitled to the exclusive use, occupancy and possession thereof, and may abate any private or public nuisance committed by any person or persons in the area of his riparian ownership and may, for such purposes, resort to any remedial action authorized by law. The governing authorities of any municipality and the board of supervisors of any county are authorized to adopt reasonable rules and regulations to protect riparian owners in the enjoyment of their riparian rights, and for such purposes may regulate the use of beaches, landings, and riparian areas abutting or fronting on roads, streets or highways.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 667

Description: Public special purpose schools; clarify provision related to administrative and licensed instructional personnel of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/06	(H) Referred To Education
2	02/25	(H) Title Suff Do Pass
3	03/04	(H) Passed {Vote}
4	03/05	(H) Transmitted To Senate
5	05/12	(S) Referred To Education; Appropriations
6	05/28	(S) DR - TSDP: ED To AP
7	06/04	(S) Title Suff Do Pass
8	06/15	(S) Passed {Vote}
9	06/16	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/18	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 043-0005-0001, A 043-0005-0008, A 043-0005-0013, A 037-0039-0001, A 031-0007-0001, A 037-0140-0005

----- Additional Information -----

House Committee: Education
Senate Committee: Education, Appropriations

Principal Author: Bennett

Title: AN ACT TO AMEND SECTION 43-5-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THE STATE BOARD OF EDUCATION WITH THE DISCRETION TO DELEGATE CERTAIN AUTHORITY TO RECEIVE AND HOLD REAL AND PERSONAL PROPERTY OR TESTAMENTARY GIFTS OR BEQUESTS FOR THE BENEFIT OF THE MISSISSIPPI SCHOOL FOR THE BLIND AND THE MISSISSIPPI SCHOOL FOR THE DEAF TO ADMINISTRATIVE STAFF OF THE STATE DEPARTMENT OF EDUCATION OF THOSE SCHOOLS; TO AMEND SECTION 43-5-8, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL ADMINISTRATIVE

AND LICENSED INSTRUCTIONAL EMPLOYEES OF MSBD TO ENTER INTO CONTRACTS FOR TERMS OF THEIR EMPLOYMENT; TO REQUIRE THE STATE BOARD OF EDUCATION TO DETERMINE THE QUALIFICATIONS FOR THOSE EMPLOYEES, WHO SHALL BE TRANSFERRED FROM UNDER THE AUTHORITY OF THE MISSISSIPPI PERSONNEL BOARD; TO PROVIDE FOR THE RETENTION OF BENEFITS AND SERVICE WITH THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE STATE AND SCHOOL EMPLOYEES' HEALTH INSURANCE PLAN; TO PROVIDE THAT SUCH EMPLOYEES SHALL BE SUBJECT TO THE WILL AND PLEASURE OF THE RESPECTIVE SUPERINTENDENTS OF MSBD; TO AMEND SECTION 43-5-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO AMEND SECTION 37-39-1, MISSISSIPPI CODE OF 1972, TO INCLUDE THE STATE BOARD OF EDUCATION WITHIN THE MEANING OF THE TERM "SCHOOL BOARD," WHEN ACTING ON BEHALF OF THE MSBD; TO AMEND SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO AMEND THE DEFINITIONS OF THE TERMS "AGENCY" AND "GOVERNING AUTHORITY" UNDER THE PUBLIC PURCHASING LAWS TO EXEMPT THE MISSISSIPPI SCHOOL FOR THE BLIND AND THE MISSISSIPPI SCHOOL FOR THE DEAF FROM CERTAIN REQUIREMENTS OF THE PUBLIC PROCUREMENT REVIEW BOARD; TO AMEND SECTION 37-140-5, MISSISSIPPI CODE OF 1972, AS IT RELATES TO PERSONNEL MATTER FOR THE MISSISSIPPI SCHOOL OF THE ARTS, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 667

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Bennett To: Education

HOUSE BILL NO. 667

AN ACT TO AMEND SECTION 43-5-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THE STATE BOARD OF EDUCATION WITH THE DISCRETION TO DELEGATE CERTAIN AUTHORITY TO RECEIVE AND HOLD REAL AND PERSONAL PROPERTY OR TESTAMENTARY GIFTS OR BEQUESTS FOR THE BENEFIT OF THE MISSISSIPPI SCHOOL FOR THE BLIND AND THE MISSISSIPPI SCHOOL FOR THE DEAF TO ADMINISTRATIVE STAFF OF THE STATE DEPARTMENT OF EDUCATION OF THOSE SCHOOLS; TO AMEND SECTION 43-5-8, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL ADMINISTRATIVE AND LICENSED INSTRUCTIONAL EMPLOYEES OF MSBD TO ENTER INTO CONTRACTS FOR TERMS OF THEIR EMPLOYMENT; TO REQUIRE THE STATE BOARD OF EDUCATION TO DETERMINE THE QUALIFICATIONS FOR THOSE EMPLOYEES, WHO SHALL BE TRANSFERRED FROM UNDER THE AUTHORITY OF THE MISSISSIPPI PERSONNEL BOARD; TO PROVIDE FOR THE RETENTION OF BENEFITS AND SERVICE WITH THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE STATE AND SCHOOL EMPLOYEES' HEALTH INSURANCE PLAN; TO PROVIDE THAT SUCH EMPLOYEES SHALL BE SUBJECT TO THE WILL AND PLEASURE OF THE RESPECTIVE SUPERINTENDENTS OF MSBD; TO AMEND SECTION 43-5-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO AMEND SECTION 37-39-1, MISSISSIPPI CODE OF 1972, TO INCLUDE THE STATE BOARD OF EDUCATION WITHIN THE MEANING OF THE TERM "SCHOOL BOARD," WHEN ACTING ON BEHALF OF THE MSBD; TO AMEND SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO AMEND THE DEFINITIONS OF THE TERMS "AGENCY" AND "GOVERNING AUTHORITY" UNDER THE PUBLIC PURCHASING LAWS TO EXEMPT THE MISSISSIPPI SCHOOL FOR THE BLIND AND THE MISSISSIPPI SCHOOL FOR THE DEAF FROM CERTAIN REQUIREMENTS OF THE PUBLIC PROCUREMENT REVIEW BOARD; TO AMEND SECTION 37-140-5, MISSISSIPPI CODE OF 1972, AS IT RELATES TO PERSONNEL MATTER FOR THE MISSISSIPPI SCHOOL OF THE ARTS, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-5-1, Mississippi Code of 1972, is amended as follows:

43-5-1. (1) The State Board of Education shall be the Board of Trustees of the Mississippi School for the Deaf and the Mississippi School for the Blind and shall retain all powers and duties granted by law to the Board of Trustees of the Mississippi School for the Deaf and the Mississippi School for the Blind. Wherever the term Board of Trustees of the Mississippi School for the Deaf and Mississippi School for the Blind appears in any law the same shall mean the State Board of Education.

(2) The provisions of this section shall not be construed to require any consolidation or combination of the Mississippi School for the Deaf and the Mississippi School for the Blind other than where economies can be realized through the common utilization of maintenance personnel and equipment, physical facilities, vehicles and administrative personnel, where the same can be done without impairment of the effectiveness of the educational programs of the two (2) institutions or the welfare of the students.

(3) The provisions of this section shall not be construed to require any consolidation of services involving curriculum or instructional programs of the two (2) institutions.

(4) The State Board of Education, on behalf of each of these institutions, shall have the power to receive and hold property, real and personal, and to accept and use as provided by law, separate from the needs of the other institutions, all bequests,

devices and donations made or which may in the future be made to or for it, and shall continue to enjoy the rights and privileges heretofore conferred upon it by law and such as are necessary now, or hereafter, to accomplish the purposes of its own establishment and operation and maintenance hereunder, provided that the same be not inconsistent with or in conflict with this chapter. The State Board of Education, in its discretion, may delegate any such powers and duties, as it deems appropriate, to any administrative staff of the State Department of Education, the Mississippi School for the Deaf or the Mississippi School for the Blind.

SECTION 2. Section 43-5-8, Mississippi Code of 1972, is amended as follows:

43-5-8. (1) The Superintendent of the School for the Blind and the Superintendent of the School for the Deaf * * * shall be selected by and hold office subject to the will and pleasure of the State Superintendent of Public Education, subject to the approval of the State Board of Education. The State Board of Education may provide housing for the two (2) superintendents so employed either on- or off-campus. Each superintendent shall at all times maintain supervision of the physical properties of the school he serves.

(2) Effective July 1, 2021, all other administrative and licensed instructional staff employed at the Mississippi School for the Blind and the Mississippi School for the Deaf, hereinafter MSBD, shall enter into written contracts of employment to indicate

and cover the period for which they are respectively employed. Such employees shall be transferred from state service under the authority of the State Personnel Board to employment status as employees of the respective school. The State Board of Education may set and determine qualifications necessary for such employees and may appoint a subcommittee of the board for the purpose of authorizing the execution of such employment contracts on a timely basis. All such contracts and employment rights prescribed thereunder shall be awarded and governed in accordance with Section 37-9-1, et seq., as applicable, and Section 37-7-307. Said contracts shall be exempt from any applicable requirements of the Public Procurement Review Board for state agency employment contracts. All references within Section 37-9-1 et seq. to a "local school district" shall apply to MSBD, and all references to a "local school board" shall apply to the State Board of Education in its role as board of trustees pursuant to Sections 43-5-1 and 43-5-5. There shall be no interruption of service with the Public Employees' Retirement System and the State and School Employees' Health Insurance Plan for administrative and licensed instructional staff. Any unused leave accumulated in state-service employment shall be transferred in accordance with the provisions of Section 37-7-707, unless otherwise provided.

(3) Effective July 1, 2021, all other personnel shall be competitively appointed by the State Superintendent * * * of Public Education with the recommendation of the superintendent of

the respective school. There shall be no interruption of service with the Public Employees' Retirement System and the State and School Employees' Health Insurance Plan for those applicable personnel. The employment shall be subject to the will and pleasure of the superintendent of the respective school, and shall not be subject to the rules and regulations of the State Personnel Board, except as provided in Section 25-9-127(4). The State Superintendent of Public Education * * * shall fix the amount of compensation or expenses of * * * these personnel * * *, which shall be paid upon the requisition of the State Superintendent of Public Education and warrant issued thereunder by the State Auditor out of the funds appropriated by the Legislature in a lump sum upon the basis of budgetary requirements submitted by the State Superintendent of Public Education or out of funds otherwise made available.

(4) The entire expense of administering the schools shall never exceed the amount appropriated therefor, plus funds received from sources other than state appropriations. For a violation of this provision, the superintendent shall be liable, and he or she and the sureties on his or her bond shall be required to restore any excess. * * * Effective July 1, 2021, any and all employees or personnel of MSBD, whether administrative, licensed instructional, nonlicensed instructional or otherwise, paid using funds appropriated therefor or received from sources other than

appropriations, shall be stationed at the respective campus of MSBD for the benefit of the respective school.

SECTION 3. Section 43-5-13, Mississippi Code of 1972, is amended as follows:

43-5-13. Braille print, designated commonly as revised Braille Grade Two, shall be taught in the School for the Blind. The use of this print shall be included in the high school literary courses of students in such school. Every teacher or instructor in the School for the Deaf, whose duties include oral instruction of pupils, shall become acquainted with the most efficient and advanced methods of lipreading, but every teacher shall also master the manual alphabet in order to be able to communicate with pupils who cannot read lips and in order to aid and participate in student activities outside the classrooms. Every pupil entering the school shall be given oral instruction until it is clearly determined whether he can master lipreading to an extent enabling him to progress satisfactorily in his studies, but manual instruction shall be provided in all subjects for all pupils unable to progress satisfactorily under oral instruction alone. The State Board of Education may set and determine the additional requirements necessary for each teacher or instructor. * * * Complete courses in shorthand and typewriting are to be offered at the School for the Deaf.

SECTION 4. Section 37-39-1, Mississippi Code of 1972, is amended as follows:

37-39-1. The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

(a) "Perishables" shall mean items which have a variable market price on which vendors are unable to submit a long-range price such as fruits and vegetables;

(b) "Purchasing agent" shall mean the superintendent, or other individual or individuals designated by the school board or by the school boards acting jointly as its agent or agents to negotiate and make private contract or to purchase;

(c) "School boards" shall mean the local governing boards of all school districts in the state, whether they act jointly or separately. The term also means the State Board of Education when acting in its role as prescribed in Section 43-5-1 et seq.;

(d) "Services" shall mean maintenance, operational and scholastic services utilized within and for the school district or school districts.

SECTION 5. Section 31-7-1, Mississippi Code of 1972, is amended as follows:

31-7-1. The following terms are defined for the purposes of this chapter to have the following meanings:

(a) "Agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or statutes if such board, commission,

committee, council, university, department, unit or the head thereof is authorized to appoint subordinate staff by the Constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof; except a charter school authorized by the Mississippi Charter School Authorizer Board; and except the Mississippi State Port Authority; * * * except the Mississippi School of the Arts (MSA) established in Section 37-140-1 et seq. for the sole purpose of the application of the term "agency" as it pertains to the Public Procurement Review Board's powers and responsibilities as defined in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2020; and except the Mississippi School for the Blind and the Mississippi School for the Deaf (MSBD) for the sole purpose of the application of the term "agency" as it pertains to the Public Procurement Review Board's powers and responsibilities as defined in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2021. An academic medical center or health sciences school as defined in Section 37-115-50 is not an "agency" for those purchases of commodities as defined in this section that are used for clinical purposes and (i) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease, and (ii) medical devices, biological, drugs and radiation emitting

devices as defined by the United States Food and Drug Administration.

(b) "Governing authority" means boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, Mississippi State Port Authority, commissioners and boards of trustees of any public hospitals, boards of trustees of public library systems, district attorneys, school attendance officers and any political subdivision of the state supported wholly or in part by public funds of the state or political subdivisions thereof, including commissions, boards and agencies created or operated under the authority of any county or municipality of this state. The term "governing authority" shall not include economic development authorities supported in part by private funds, or commissions appointed to hold title to and oversee the development and management of lands and buildings which are donated by private individuals to the public for the use and benefit of the community and which are supported in part by private funds. The term "governing authority" also shall not include the governing board of a charter school. The term "governing authority" also shall not include the Mississippi School of the Arts established in Section 37-140-1 et seq., for the sole purpose of the application of the term "agency" as it

pertains to the Public Procurement Review Board's powers and responsibilities as defined in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2020. The term "governing authority" also shall not include the Mississippi School for the Blind and the Mississippi School for the Deaf (MSBD) for the sole purpose of the application of the term "governing authority" as it pertains to the Public Procurement Review Board's powers and responsibilities as defined in Section 27-104-7(2)(a), but without application to the use of the term within this chapter, effective July 1, 2021.

(c) "Purchasing agent" means any administrator, superintendent, purchase clerk or other chief officer so designated having general or special authority to negotiate for and make private contract for or purchase for any governing authority or agency, including issue purchase orders, invitations for bid, requests for proposals, and receive and accept bids.

(d) "Public funds" means and includes any appropriated funds, special funds, fees or any other emoluments received by an agency or governing authority.

(e) "Commodities" means and includes the various commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state and governing authorities, but not commodities purchased for resale or raw materials converted into products for resale.

(i) "Equipment" shall be construed to include: automobiles, trucks, tractors, office appliances and all other equipment of every kind and description.

(ii) "Furniture" shall be construed to include: desks, chairs, tables, seats, filing cabinets, bookcases and all other items of a similar nature as well as dormitory furniture, appliances, carpets and all other items of personal property generally referred to as home, office or school furniture.

(f) "Emergency" means any circumstances caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection or caused by any inherent defect due to defective construction, or when the immediate preservation of order or of public health is necessary by reason of unforeseen emergency, or when the immediate restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable, or in the case of a public utility when there is a failure of any machine or other thing used and useful in the generation, production or distribution of electricity, water or natural gas, or in the transportation or treatment of sewage; or when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens; or in the case of a public airport, when the delay incident to publishing an advertisement for competitive bids would endanger public safety in a specific (not general) manner, result in or

perpetuate a specific breach of airport security, or prevent the airport from providing specific air transportation services.

(g) "Construction" means the process of building, altering, improving, renovating or demolishing a public structure, public building, or other public real property. It does not include routine operation, routine repair or regularly scheduled maintenance of existing public structures, public buildings or other public real property.

(h) "Purchase" means buying, renting, leasing or otherwise acquiring.

(i) "Certified purchasing office" means any purchasing office in which fifty percent (50%) or more of the purchasing agents hold a certification from the Universal Public Purchasing Certification Council or other nationally recognized purchasing certification, and in which, in the case of a state agency purchasing office, in addition to the national certification, one hundred percent (100%) of the purchasing officials hold a certification from the State of Mississippi's Basic or Advanced Purchasing Certification Program.

(j) "Certified Mississippi Purchasing Agent" means a state agency purchasing official who holds a certification from the Mississippi Basic Purchasing Certification Program as established by the Office of Purchasing, Travel and Fleet Management.

(k) "Certified Mississippi Procurement Manager" means a state agency purchasing official who holds a certification from the Mississippi Advanced Purchasing Certification Program as established by the Office of Purchasing, Travel and Fleet Management.

SECTION 6. Section 37-140-5, Mississippi Code of 1972, is amended as follows:

37-140-5. (1) The school shall be governed by the State Board of Education. The board shall develop a plan relating to the opening, operation and funding of the school to be presented to the Legislature during the 2000 Regular Session. The plan shall include an equitable and reasonable plan for student recruitment without regard to race, creed or color.

(2) The State Superintendent of Public Education shall appoint an advisory panel to assist the board in developing the plan relating to the school. The advisory panel shall consist of the following twelve (12) appointed or designated members:

(a) Three (3) licensed school teachers or administrators, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts;

(b) Three (3) citizens or professionals representing the areas of dance, creative writing, literature, music, theater arts or visual arts, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts;

(c) Three (3) citizens knowledgeable in business, personnel management or public administration, with at least three (3) years' actual experience therein, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts.

(d) One (1) member shall be a representative of the Mississippi Arts Commission to be designated by the commission, one (1) member shall be a representative of the Mississippi Humanities Council to be designated by the council, and one (1) member shall be a representative of the state institutions of higher learning in Mississippi which offer degrees in visual, fine and performing arts, to be designated by the Board of Trustees of State Institutions of Higher Learning.

Appointments to the advisory panel shall be made within ninety (90) days of April 23, 1999. The advisory panel shall meet upon the call of the State Superintendent of Public Education and shall organize for business by selecting a chairman and vice chairman/secretary for keeping records of the panel. Members of the advisory panel shall receive no compensation but may be reimbursed for necessary expenses and mileage for attending meetings and necessary business of the panel, in the amount authorized for state employees under Section 25-3-41.

(3) The board may utilize the staff of the State Department of Education and other state agencies as may be required for the implementation of this chapter. The department may employ any personnel deemed necessary by the board for assisting in the

development and implementation of the plan relating to the opening, operation and funding of the school. The board also may contract or enter into agreements with other agencies or private entities which it deems necessary to carry out its duties and functions relating to the opening and operation of the school.

(4) To the extent possible, the board shall enter into agreements with the Board of Trustees of the Brookhaven Municipal Separate School District for the dual enrollment of students for the purpose of teaching academic courses to students attending the school, and the local school board shall be fully authorized to offer any such courses to students attending the school. The State Board of Education may develop and issue necessary regulations for the coordination of such courses for these students, the preparation and transfer of transcripts, and the reimbursement of any costs incurred by the school district for providing such services.

(5) The board may enter into agreements with public school districts to authorize students enrolled in such school districts to participate in the fine arts programs at the school to the extent that adequate space is available. The parent or guardian of any student participating in fine arts programs at the school under this subsection shall be responsible for transporting the student to and from the school.

(6) * * * Effective July 1, 2020, all administrative, instructional and noninstructional employees of the Mississippi

School of the Arts shall be transferred from state service and the authority of the State Personnel Board to employment status as employees of the Mississippi School of the Arts. All administrative and instructional employees at the said school shall enter into written contracts of employment to indicate and cover the period for which they are respectively employed. All such contracts for administrative and instructional employees shall be exempt from the requirements of the Public Procurement Review Board for state agency employment contracts. The State Board of Education may set and determine qualifications necessary for such employees and may appoint a subcommittee of the board for the purpose of authorizing the execution of such employment contracts on a timely basis. Such administrators and employees shall be offered contracts by the Superintendent/Executive Director of the MSA and * * * all such contracts and employment rights prescribed thereunder shall be awarded and governed in accordance with Sections 37-9-1, et seq., as applicable, and Section 37-7-307. Any and all references within Section 37-9-1 et seq., to a "local school district" shall apply to MSA and any and all references to a "local school board" shall apply to the State Board of Education's role as defined in Section 37-140-1. The MSA may renew employment or nonrenew employment with such administrative and instructional employees in accordance with the provisions of said sections relating to school district employment. Noninstructional employees of the MSA shall be

full-time employees of the MSA and shall serve at the will and pleasure of the Superintendent of the MSA. All salaries and contracts shall be subject to the approval of the State Board of Education, and the MSA may continue to use the teacher salary scale for its instructional employees which is in effect on January 1, 2019. Any unused leave accumulated at the Mississippi School of the Arts shall be transferred in accordance with the provisions of Section 37-7-307. There shall be no interruption of service with the Public Employees' Retirement System and the State and School Employees' Health Insurance Plan for administrative, instructional and noninstructional employees due to an employee's employment status under this subsection. The MSA shall not be considered a local educational agency for the same purposes and to the same extent that all other school districts in the state are deemed local educational agencies under applicable federal law. The MSA may receive donations or grants from any public or private source, including any federal funding that may be available to the schools within the MSA.

SECTION 7. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 669

Description: Tate County School Board; require to consolidate system of high schools by closing Coldwater High School.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: ** See Text

History of Actions:

1	02/06	(H) Referred To Education
2	03/03	(H) Title Suff Do Pass Comm Sub
3	03/11	(H) Committee Substitute Adopted
4	03/11	(H) Passed {Vote}
5	03/11	(H) Motion to Reconsider Entered (Osborne, Bennett, McCarty)
6	03/12	(H) Motion to Reconsider Tabled
7	03/17	(H) Transmitted To Senate
8	05/11	(S) Referred To Education
9	05/28	(S) Title Suff Do Pass
10	06/10	(S) Passed {Vote}
11	06/11	(S) Motion to Reconsider Entered
12	06/15	(S) Motion to Reconsider Tabled
13	06/15	(S) Returned For Enrolling
14	06/18	(H) Enrolled Bill Signed
15	06/18	(S) Enrolled Bill Signed
16	06/25	Approved by Governor

Code Section: BF 037-0007-0315

----- Additional Information -----

House Committee: Education
Senate Committee: Education

Principal Author: Bennett

Title: AN ACT TO REQUIRE THE TATE COUNTY SCHOOL BOARD, HAVING JURISDICTION OVER THREE HIGH SCHOOLS WITHIN THE TATE COUNTY SCHOOL DISTRICT, TO CONSOLIDATE ITS SYSTEM OF HIGH SCHOOLS BY CLOSING COLDWATER HIGH SCHOOL, WHICH HAS CONSISTENTLY

AND CHRONICALLY UNDERPERFORMED AS DETERMINED BY ITS GRADE DESIGNATION UNDER THE STATEWIDE SCHOOL ACCOUNTABILITY RATING SYSTEM AS DETERMINED BY THE STATE BOARD OF EDUCATION, UPON THE COMPLETION OF THE 2019-2020 SCHOLASTIC YEAR; TO PROVIDE THAT UPON SUCH CLOSURE, STUDENTS THEN ATTENDING COLDWATER HIGH SCHOOL SHALL HAVE THE DISCRETION TO CHOOSE WHETHER TO ATTEND EITHER OF THE TWO REMAINING HIGH SCHOOLS IN THE TATE COUNTY SCHOOL DISTRICT OR REQUEST A TRANSFER TO THE SENATOBIA MUNICIPAL SCHOOL DISTRICT BASED ON RESIDENTIAL PROXIMITY TO THE APPROPRIATE HIGH SCHOOL OF ATTENDANCE WITHIN THE SENATOBIA MUNICIPAL SCHOOL DISTRICT; TO REQUIRE THE TATE COUNTY SCHOOL BOARD AND THE SENATOBIA MUNICIPAL SCHOOL BOARD TO ENTER INTO AN AGREEMENT NOT LATER THAN JULY 1, 2020, TO PROVIDE FOR THE AUTOMATIC TRANSFER OF ANY STUDENTS ENROLLED IN AND ATTENDING COLDWATER HIGH SCHOOL AT THE TIME OF ITS CLOSURE SEEKING TRANSFER TO THE SENATOBIA MUNICIPAL SCHOOL DISTRICT, AS DETERMINED BY THE RESIDENCE OF THE STUDENTS IN CLOSEST PROXIMITY TO THE BOUNDARY OF THE MUNICIPAL SCHOOL DISTRICT; TO PROVIDE THAT THE ATTENDANCE ZONE OF COLDWATER HIGH SCHOOL SHALL BE COLLAPSED TO BE REDRAWN AND DISTRIBUTED IN EQUAL PROPORTION TO THE REMAINING TWO HIGH SCHOOL ATTENDANCE ZONES IN THE COUNTY SCHOOL DISTRICT; TO BRING FORWARD SECTION 37-7-315, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 669

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Bennett To: Education

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 669

AN ACT TO REQUIRE THE TATE COUNTY SCHOOL BOARD, HAVING JURISDICTION OVER THREE HIGH SCHOOLS WITHIN THE TATE COUNTY SCHOOL DISTRICT, TO CONSOLIDATE ITS SYSTEM OF HIGH SCHOOLS BY CLOSING COLDWATER HIGH SCHOOL, WHICH HAS CONSISTENTLY AND CHRONICALLY UNDERPERFORMED AS DETERMINED BY ITS GRADE DESIGNATION UNDER THE STATEWIDE SCHOOL ACCOUNTABILITY RATING SYSTEM AS DETERMINED BY THE STATE BOARD OF EDUCATION, UPON THE COMPLETION OF THE 2019-2020 SCHOLASTIC YEAR; TO PROVIDE THAT UPON SUCH CLOSURE, STUDENTS THEN ATTENDING COLDWATER HIGH SCHOOL SHALL HAVE THE DISCRETION TO CHOOSE WHETHER TO ATTEND EITHER OF THE TWO REMAINING HIGH SCHOOLS IN THE TATE COUNTY SCHOOL DISTRICT OR REQUEST A TRANSFER TO THE SENATOBIA MUNICIPAL SCHOOL DISTRICT BASED ON RESIDENTIAL PROXIMITY TO THE APPROPRIATE HIGH SCHOOL OF ATTENDANCE WITHIN THE SENATOBIA MUNICIPAL SCHOOL DISTRICT; TO REQUIRE THE TATE COUNTY SCHOOL BOARD AND THE SENATOBIA MUNICIPAL SCHOOL BOARD TO ENTER INTO AN AGREEMENT NOT LATER THAN JULY 1, 2020, TO PROVIDE FOR THE AUTOMATIC TRANSFER OF ANY STUDENTS ENROLLED IN AND ATTENDING COLDWATER HIGH SCHOOL AT THE TIME OF ITS CLOSURE SEEKING TRANSFER TO THE SENATOBIA MUNICIPAL SCHOOL DISTRICT, AS DETERMINED BY THE RESIDENCE OF THE STUDENTS IN CLOSEST PROXIMITY TO THE BOUNDARY OF THE MUNICIPAL SCHOOL DISTRICT; TO PROVIDE THAT THE ATTENDANCE ZONE OF COLDWATER HIGH SCHOOL SHALL BE COLLAPSED TO BE REDRAWN AND DISTRIBUTED IN EQUAL PROPORTION TO THE REMAINING TWO HIGH SCHOOL ATTENDANCE ZONES IN THE COUNTY SCHOOL DISTRICT; TO BRING FORWARD SECTION 37-7-315, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) Not later than July 1, 2020, the Tate County School Board, having jurisdiction over three (3) high schools within the Tate County School District, shall consolidate its

system of high schools by closing Coldwater High School upon the completion of the 2019-2020 scholastic year. Factors used in determining the necessity to close Coldwater High School consists of the following criteria:

(a) Coldwater High School has consistently and chronically underperformed, as determined by its grade designation under the statewide school accountability rating system, as determined by the State Board of Education for the last four (4) accreditation cycles as follows:

(i) Maintained a "F" accountability rating for the 2016, 2017 and 2018 school years; and

(ii) Achieved a "D" accountability rating for the 2019 school year;

(b) Coldwater High School has maintained an average annual enrollment of approximately one hundred (100) students for the last four (4) scholastic terms;

(c) Coldwater High School's average annual student enrollment for the last four (4) scholastic terms represents less than four percent (4%) of the overall student enrollment for the Tate County School District;

(d) Coldwater High School provides a limited selection of robust and advanced course offerings as part of its adopted curriculum; and

(e) An assessment of Coldwater High School's graduation percentage rates and dropout percentage rates in comparison to the

other remaining two (2) high schools throughout Tate County, the Senatobia Municipal School District and in surrounding counties.

(2) Under the authority provided in Section 37-7-315, the Tate County School Board shall execute a plan to provide for the closure of Coldwater High School, which shall be spread upon the minutes of its regularly scheduled meeting or at a special meeting called for the specific purpose of the school closure. At said meeting, the Tate County School Board shall:

(a) Issue an order to provide that the attendance zone of Coldwater High School shall be collapsed and redrawn for distribution in equal proportions to the school attendance zones for Independence High School and Strayhorn High School. The Tate County School Board shall thereafter publish the same in some newspaper of general circulation in the county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the school board, the new high school attendance zones will thereafter be effective;

(b) Issue an order to provide that upon such closure, students attending Coldwater High School shall have the discretion to choose whether to:

(i) Attend either Independence High School or Strayhorn High School in a manner that does not disparately impact the desegregation of either school; or

(ii) Transfer to the Senatobia Municipal School District, provided that the appropriate high school located

therein is closest in proximity to the student's residence than either of the two (2) high schools in the Tate County School District; and

(c) Issue an order to enter agreement with the Senatobia Municipal School Board for the release by the Tate County School Board and subsequent acceptance by the Senatobia Municipal School District of students affected by the closure of Coldwater High School. The agreement between each school board made parties thereto must consider the composition of the district boundaries of the Tate County School District, as it existed on January 1, 2020, to ensure that the student population eligible to be transferred from the Coldwater High School attendance zone to the Senatobia Municipal School District does not disparately impact the desegregation of either school district entering into agreement.

SECTION 2. Section 37-7-315, Mississippi Code of 1972, is brought forward as follows:

37-7-315. In creating school districts under the provisions of Article 1 of this chapter, it shall not be necessary that the school board, in the order creating such districts, specify or designate the location of the school houses or attendance centers therein, and existing school buildings shall be retained as places of attendance until changed in the manner hereinafter set forth. Where any existing facilities or buildings shall not be used as attendance centers, the school board may utilize such facilities

and buildings in connection with any related school activity which said school board may deem advisable.

The school board of any school district shall have the power and authority to designate the locations for school buildings and attendance centers in the school district subject to its jurisdiction and to change, alter or abolish the location of such school buildings and attendance centers from time to time as may be required by the educational needs of such school district. Where students from three (3) or more school districts are in attendance at one (1) attendance center by order of the respective school boards of the school districts, the use of the attendance center shall not be changed, altered or abolished except upon order of a majority of each of the school boards of the school districts from which pupils have been in attendance at the attendance center for the scholastic year; any acts, decisions, orders or resolutions by the school board of any such school district in conflict with this provision shall be null and void. If any change or alteration of the location of a school building or attendance center shall involve the construction of new school facilities, or the making of additions to, or the major repair, alteration or renovation of existing facilities, then such change or alteration shall not be effective until same shall have been submitted to and approved by the State Board of Education. There may be located and established in any school district as many school buildings and attendance centers as the educational needs

of such district shall require. The school board of the school district shall have the power and authority to specify the attendance areas which shall be served by each school building or attendance center, and to change or alter same from time to time as necessity requires.

SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the United States District Court, Northern District of Mississippi, such court having jurisdiction over a desegregation order concerning one or more school districts affected by the requirements provided in this act.

SECTION 4. This act shall take effect and be in force from and after the date it is approved by the District Court Judge for the United States District Court, Northern District of Mississippi.

Mississippi Legislature
2020 Regular Session

House Bill 676

Description: State and School Health Insurance Management Board; authorize State Agency executive heads to designate to serve in his or her capacity.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/06	(H) Referred To Education
2	03/03	(H) Title Suff Do Pass
3	03/05	(H) Passed {Vote}
4	03/06	(H) Transmitted To Senate
5	05/11	(S) Referred To Education
6	05/28	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 025-0015-0303

----- Additional Information -----

House Committee: Education
Senate Committee: Education

Principal Author: Bennett

Title: AN ACT TO AMEND SECTION 25-15-303, MISSISSIPPI CODE OF 1972, TO CLARIFY THE COMPOSITION OF THE STATE AND SCHOOL EMPLOYEES HEALTH INSURANCE MANAGEMENT BOARD BY AUTHORIZATION OF STATE AGENCY EXECUTIVE HEADS TO DESIGNATE AN INDIVIDUAL TO SERVE IN HIS OR HER CAPACITY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Bennett To: Education

HOUSE BILL NO. 676

AN ACT TO AMEND SECTION 25-15-303, MISSISSIPPI CODE OF 1972, TO CLARIFY THE COMPOSITION OF THE STATE AND SCHOOL EMPLOYEES HEALTH INSURANCE MANAGEMENT BOARD BY AUTHORIZATION OF STATE AGENCY EXECUTIVE HEADS TO DESIGNATE AN INDIVIDUAL TO SERVE IN HIS OR HER CAPACITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-15-303, Mississippi Code of 1972, is amended as follows:

25-15-303. (1) There is created the State and School Employees Health Insurance Management Board, which shall administer the State and School Employees Life and Health Insurance Plan provided for under Section 25-15-3 et seq. The State and School Employees Health Insurance Management Board, hereafter referred to as the "board," shall also be responsible for administering all procedures for selecting third-party administrators provided for in Section 25-15-301.

(2) The board shall consist of the following:

(a) The Chairman of the Workers' Compensation Commission or his or her designee;

(b) The State Personnel Director, or his or her designee;

(c) The Commissioner of Insurance, or his or her designee;

(d) The Commissioner of Higher Education, or his or her designee;

(e) The State Superintendent of Public Education, or his or her designee;

(f) The Executive Director of the Department of Finance and Administration, or his or her designee;

(g) The Executive Director of the Mississippi Community College Board, or his or her designee;

(h) The Executive Director of the Public Employees' Retirement System, or his or her designee;

(i) Two (2) appointees of the Governor whose terms shall be concurrent with that of the Governor, one (1) of whom shall have experience in providing actuarial advice to companies that provide health insurance to large groups and one (1) of whom shall have experience in the day-to-day management and administration of a large self-funded health insurance group;

(j) The Chairman of the Senate Insurance Committee, or his or her designee;

(k) The Chairman of the House of Representatives Insurance Committee, or his or her designee;

(l) The Chairman of the Senate Appropriations Committee, or his or her designee; and

(m) The Chairman of the House of Representatives Appropriations Committee, or his or her designee.

The legislators, or their designees, shall serve as ex officio, nonvoting members of the board.

The Executive Director of the Department of Finance and Administration shall be the chairman of the board.

(3) The board shall meet at least monthly and maintain minutes of the meetings. A quorum shall consist of a majority of the authorized voting membership of the board. The board shall have the sole authority to promulgate rules and regulations governing the operations of the insurance plans and shall be vested with all legal authority necessary and proper to perform this function including, but not limited to:

(a) Defining the scope and coverages provided by the insurance plan;

(b) Seeking proposals for services or insurance through competitive processes where required by law and selecting service providers or insurers under procedures provided for by law; and

(c) Developing and adopting strategic plans and budgets for the insurance plan.

The department shall employ a State Insurance Administrator, who shall be responsible for the day-to-day management and administration of the insurance plan. The Department of Finance

and Administration shall provide to the board on a full-time basis personnel and technical support necessary and sufficient to effectively and efficiently carry out the requirements of this section.

(4) Members of the board shall not receive any compensation or per diem, but may receive travel reimbursement provided for under Section 25-3-41 except that the legislators shall receive per diem and expenses, which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the board shall be paid while the Legislature is in session.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 687

Description: Mississippi Boll Weevil Management Corporation; extend repealer on requirement that audits be submitted by Nov. 15.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/06	(H) Referred To Agriculture
2	02/11	(H) Title Suff Do Pass
3	02/12	(H) Passed {Vote}
4	02/13	(H) Transmitted To Senate
5	02/14	(S) Referred To Agriculture
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 069-0037-0017

----- Additional Information -----

House Committee: Agriculture
Senate Committee: Agriculture

Principal Author: Turner

Title: AN ACT TO AMEND SECTION 69-37-17, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE PROVISION OF LAW THAT REQUIRES THE MISSISSIPPI BOLL WEEVIL MANAGEMENT CORPORATION TO SUBMIT THE ANNUAL AUDIT OF ITS ACCOUNTS TO THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE NO LATER THAN NOVEMBER 15; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 687

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Turner To: Agriculture

HOUSE BILL NO. 687

AN ACT TO AMEND SECTION 69-37-17, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE PROVISION OF LAW THAT REQUIRES THE MISSISSIPPI BOLL WEEVIL MANAGEMENT CORPORATION TO SUBMIT THE ANNUAL AUDIT OF ITS ACCOUNTS TO THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE NO LATER THAN NOVEMBER 15; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-37-17, Mississippi Code of 1972, is amended as follows:

69-37-17. (1) At the request of the corporation, the bureau shall authorize a statewide referendum among all Mississippi cotton growers on the question of whether an assessment, not to exceed One Dollar ($1.00) per acre, shall be levied upon all cotton producers to offset, in whole or in part, the cost of maintaining the corporation, conducting referenda, and/or conducting a program to collect data and information on boll weevil populations and control costs. Any assessments levied for data-collecting programs as a result of the referendum shall be in addition to assessments being collected to support any other boll weevil management programs in the state.

(2) At the request of the corporation, the bureau shall authorize a statewide referendum among all Mississippi cotton growers on the question of whether an assessment, not to exceed Twelve Dollars ($12.00) per acre, shall be levied upon all cotton growers to offset, in whole or in part, the cost of managing boll weevil suppression, pre-eradication, eradication, or post-eradication programs authorized by this chapter or by any other law of this state. The programs shall be designed on a statewide basis.

(3) The assessment levied under this chapter shall be based upon the level of boll weevil infestation and the anticipated cost of conducting the proposed program, as determined by available scientific data, and the number of acres of cotton planted in the specified management zone. The maximum amount of the assessment, the period of time for which it shall be levied, how it shall be levied, and when it shall be paid shall be determined by the bureau and the board and established by regulations according to this section. The maximum amount of the assessment, the period of time for which it will be levied, and when the payment is due shall appear on all ballots for the referenda authorized by subsections (1) and (2) of this section.

(4) All cotton growers having membership in a local cotton growers association shall be entitled to vote in any referendum authorized by subsections (1) and (2) of this section, and the bureau, after consultation with the corporation, shall determine

any questions of eligibility to vote. A cotton grower must be growing cotton within this state and be a member of a local cotton growers association in order to be eligible to vote in elections and referenda concerning boll weevil management practices.

(5) Each eligible cotton grower shall be mailed a ballot upon which to cast a vote for or against the boll weevil suppression, pre-eradication, eradication or post-eradication program.

(6) Passage of a referendum under subsection (1) or (2) of this section shall require that at least twenty percent (20%) of the registered cotton growers vote in the referendum and that a majority of those voting statewide approve the referendum.

(7) (a) The assessments collected by the department under this chapter shall be promptly remitted to the State Treasury on behalf of the corporation in the special fund established in paragraph (b) of this subsection to be held in trust for the use and benefit of the corporation in administering the designated boll weevil management program through the suppression, pre-eradication, eradication or post-eradication of boll weevils.

(b) There is created within the State Treasury a special fund to be designated the "Mississippi Boll Weevil Management Corporation Trust Fund" into which shall be deposited all the revenues collected by the department for assessments levied under the provisions of this section. Monies in the fund shall be disbursed upon warrants issued by the State Fiscal

Officer upon requisitions signed by the corporation's board. Monies in the fund shall remain inviolate and any unexpended amounts remaining in the fund at the end of the fiscal year, and any interest earned thereon, shall be divested to the corporation.

(8) (a) The corporation shall provide to the department an annual audit of its accounts performed by a certified public accountant.

(b) (i) The corporation shall provide the annual audit no later than November 15 for the preceding calendar year.

(ii) This paragraph (b) shall stand repealed on July 1, * * * 2023.

(9) The assessments collected by the department under this chapter shall not be considered as "state" funds.

(10) Upon completion or termination of a program, any unused funds shall be transferred to and deposited in the Boll Weevil Management Fund created under Section 69-37-39, for the purpose of being used if there is a future occurrence of a boll weevil outbreak in the state.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 689

Description: Petroleum Products Inspection Law; extend repealers on definitions and penalties under.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/06	(H) Referred To Energy
2	02/26	(H) Title Suff Do Pass
3	03/05	(H) Passed {Vote}
4	03/06	(H) Transmitted To Senate
5	05/11	(S) Referred To Energy
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 075-0055-0005, A 075-0055-0037

----- Additional Information -----

House Committee: Energy
Senate Committee: Energy

Principal Author: Turner
Additional Authors: Anthony

Title: AN ACT TO AMEND SECTIONS 75-55-5 AND 75-55-37, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALERS ON THOSE SECTIONS OF LAW WHICH PROVIDE DEFINITIONS AND PENALTIES UNDER THE PETROLEUM PRODUCTS INSPECTION LAW OF MISSISSIPPI; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 689

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Turner, Anthony To: Energy

HOUSE BILL NO. 689

AN ACT TO AMEND SECTIONS 75-55-5 AND 75-55-37, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALERS ON THOSE SECTIONS OF LAW WHICH PROVIDE DEFINITIONS AND PENALTIES UNDER THE PETROLEUM PRODUCTS INSPECTION LAW OF MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-55-5, Mississippi Code of 1972, is amended as follows:

75-55-5. (1) The words, terms and phrases as used in this chapter shall have the following meanings, unless the context requires otherwise:

(a) The term "commissioner" means the Commissioner of the Mississippi Department of Agriculture and Commerce, or his agents and employees.

(b) The term "State Chemist" means the Director of the Mississippi State Chemical Laboratory, or his agents and employees.

(c) The term "ASTM" means an international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials,

products, systems, and services, and the promotion of related knowledge.

(d) The term "person" shall include any individual, firm, copartnership, joint venture, association, corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(e) The term "illuminating oil" shall include coal oil, kerosene or other petroleum products used for illuminating purposes.

(f) The term "lubricating oil" means all petroleum-based oils or synthetic lubricants intended for use in the crankcase of an internal combustion engine, either spark ignition or diesel type. The purpose of the lubricating oil is to reduce friction between two (2) solid surfaces moving relative to one another.

(g) The term "gasoline pump" shall include pumps, meters and all measuring devices used for measuring gasoline and all oxygenated blended fuels; the term "diesel fuel pump" shall include pumps, meters and all measuring devices used for measuring diesel fuel; the term "kerosene pump" shall include pumps, meters and all measuring devices used for measuring kerosene; the term "liquefied compressed gas pump" shall include pumps, meters and all measuring devices used for measuring liquefied compressed gas.

(h) The term "gasoline" shall include (i) all products commonly or commercially known or sold as gasoline (excluding casing head and absorption or natural gasoline) regardless of their classification or uses; and (ii) a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark ignition, internal combustion engines.

(i) The term "commercial gasoline" shall mean a liquid suitable for use as a fuel in spark ignition combustion engines, and shall be free of undissolved water, suspended matter and of any harmful ingredient or component and which, in addition, meets the following test requirements as set out in ASTM D4814, and it shall be the intent of this chapter that the state specifications may be kept current with ASTM D4814 as illustrated below:

(i) Corrosion ASTM D130. A clean copper strip shall not show more than extremely slight discoloration equivalent to ASTM Strip No. 1, when submerged in the gasoline for three (3) hours at one hundred twenty-two degrees (122°) Fahrenheit, as determined by ASTM D130.

(ii) Distillation range. For each month the distillation range shall be that specified by the vapor pressure class requirement for that month. Distillation temperature limits shall be consistent with the corresponding vapor pressure class during the months affected by federal or state regulation which restrict vapor pressure. If the vapor pressure limit is between

two (2) classes, the distillation temperature limits of the least restrictive class shall be acceptable. The method of test shall be ASTM D86.

(iii) Residue. The residue, after evaporation, shall not exceed two percent (2%), as determined by ASTM D86.

(iv) Gum test. The gum shall not exceed five (5) milligrams per one hundred (100) milliliters, after the extraction of the residue with a-heptane, as determined by ASTM D381.

(v) Sulphur. The sulphur content shall not exceed ten one-hundredths percent (0.10%) for unleaded gasoline or fifteen one-hundredths percent (0.15%) for leaded gasoline, as determined by ASTM D2622 or D4045.

(vi) Vapor pressure. The vapor pressure during the months of July and August shall not exceed ten (10) pounds per square inch at one hundred degrees (100°) Fahrenheit, and during the months of November, December, January, February and March shall not exceed thirteen and one-half (13-1/2) pounds per square inch at one hundred degrees (100°) Fahrenheit.

The vapor pressure during the remaining months of the year shall not exceed eleven and five-tenths (11.5) pounds per square inch at one hundred degrees (100°) Fahrenheit. The method of determination shall be ASTM D4953. Federal or state regulation restricting vapor pressure to lower levels shall preempt these standards during the applicable months.

(vii) Vapor liquid equilibrium. A maximum value of twenty (20) for the vapor liquid equilibrium test during the months July and August shall be obtained at a temperature of one hundred thirty-three degrees (133°) Fahrenheit; for the months of November, December, January, February and March it shall be obtained at a temperature of one hundred sixteen degrees (116°) Fahrenheit; for the other months of the year it shall be obtained at one hundred twenty-four degrees (124°) Fahrenheit. The method of determination shall be ASTM D2533 or ASTM D4814, appendix X2.

(viii) Lead specifications. The unleaded gasoline shall contain less than five hundredths (0.05) gram of lead per gallon, and the leaded gasoline shall contain a minimum of five hundredths (0.05) gram of lead and less than four and two-tenths (4.2) grams of lead per gallon. The method of analysis should be ASTM D3237, (Atomic Absorption Spectrometry), ASTM D2599 (X-ray Spectrometry) or ASTM D2547 (Volumetric Chromate).

(ix) Classification.

1. "Leaded premium grade gasoline" shall have an (R + M)/2 octane antiknock index of at least ninety-three (93). The research octane number shall be at least ninety-six (96).

2. "Unleaded premium grade gasoline" shall have an (R + M)/2 octane antiknock index of at least ninety-one (91). The research octane number shall be at least ninety-four (94).

3. "Mid-grade unleaded gasoline" shall have an (R + M)/2 octane antiknock index of at least eighty-nine (89). The research octane number shall be at least ninety-two (92).

4. "Leaded regular grade gasoline" shall have an (R + M)/2 octane antiknock index of at least eighty-nine (89). The research octane number shall be at least ninety (90).

5. "Unleaded regular grade gasoline" shall have an (R + M)/2 octane antiknock index of at least eighty-seven (87). The research octane number shall be at least ninety (90), and the motor octane number shall be at least eighty-two (82).

6. "Third-grade gasoline" shall have an (R + M)/2 octane antiknock of not more than eighty-seven (87).

The methods of octane determination shall be ASTM D2699 for the research octane number (R) and ASTM D2700 for the motor octane number (M), or ASTM D2885 for both the research octane number and the motor octane number. The (R + M)/2 octane antiknock index shall be the average of the research and motor octane numbers. All retail pumps or delivery devices shall be labeled with the appropriate (R + M)/2 octane antiknock index in accordance with the Federal Trade Commission Octane Posting and Certification Regulation 306. No commercial gasoline shall be colored mahogany.

(j) The term "oxygenated fuel" means a liquid fuel which is a homogeneous blend of hydrocarbons and oxygenates. The term "oxygenate" means an oxygen containing ashless organic compound which may be used as a fuel supplement or additive and

includes alcohols and ethers. "Gasoline-oxygenate blend" means a blend consisting primarily of gasoline and a substantial amount of one or more oxygenates. This definition includes, but is not limited to, the following designations:

(i) "Gasohol" meaning any motor fuel containing a nominal ten (10) volume percent anhydrous denatured alcohol and ninety (90) volume percent unleaded gasoline, regardless of other name, label or designation.

(ii) "Leaded gasohol" meaning any motor fuel containing a nominal ten (10) volume percent anhydrous, denatured ethanol and ninety (90) volume percent leaded gasoline, regardless of other name, label or designation.

(iii) Any gasoline-oxygenate blend which meets the United States Environmental Protection Agency's "substantially similar" rule, Section 211(f)(1) of the Clean Air Act, 42 USCS 7545(f)(1).

(iv) Any gasoline-oxygenate blend for which there is an existing Clean Air Act waiver issued by the United States Environmental Protection Agency.

(k) "Alcohol blended fuel" means gasohol or leaded gasohol.

(l) "Anhydrous, denatured ethyl alcohol (ethanol)" means normal two hundred (200) proof ethanol to which has been added a maximum of five (5) volumes of approved denaturant(s) to one hundred (100) volumes of ethanol and containing not more than

one and twenty-five hundredths percent (1.25%) water by weight as determined by ASTM E203.

(m) "Approved denaturant(s)" means materials used for denaturing ethyl alcohol for use as a motor fuel which have been approved by the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, and both the State Chemist and the Commissioner of Agriculture and Commerce. Gasoline-oxygenate blends shall meet the specifications set forth in the most recent edition of the Annual Book of ASTM standards and supplements thereto, and revisions thereof, except where amended or modified by the Commissioner and State Chemist.

(n) The term "oil" as used in this chapter shall include diesel fuel, kerosene, fuel oil, distillate, gas oil, tractor fuel or any other product other than gasoline, as defined in this chapter, which is usable as fuel in an internal combustion engine, and any product which, on distillation in accordance with the method of test of the American Society for Testing and Materials shows not more than ten percent (10%) recovered when the thermometer shows two hundred sixty-one degrees (261°) Fahrenheit; and not more than ninety-five percent (95%) recovered when the thermometer shows four hundred sixty-five degrees (465°) Fahrenheit or more; provided that nothing in this paragraph shall be construed to include oils received or sold as lubricants when such oils cannot be used as a fuel in internal combustion engines.

(o) "Diesel fuel" is any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without the presence of an electric spark.

Specifications: The fuel oils herein specified shall be hydrocarbon oils free from acids, grit and fibrous or other foreign material. Three (3) grades of such oils are specified and these shall conform to the detailed requirements in the current American Society for Testing and Materials Specifications for Diesel Fuel Oils (ASTM D975), except for the sulphur content of Grade 2-D. All tests shall be in accordance with the applicable American Society for Testing and Materials method as set forth in the current ASTM Designation D975. Diesel fuel requirements are listed below:

	Grade 1-D	Grade 2-D	Grade 4-D
Flash point, degrees F. D93	Min. 100	Min. 125	Min. 130
Water & sediment, % by volume, D1796	Max. 0.05	Max. 0.05	Max. 0.5
Carbon residue on 10% residium, % D524	Max. 0.15	Max. 0.35	_____
Ash, % by weight, D482	Max. 0.01	Max. 0.01	Max. 0.1
Distillation, 90% point, degrees F., D86	_____	Min. 540	_____
	Max. 550	Max. 640	_____
Viscosity @ 100 degrees F.			

kinematic-centistokes			
D445	Min. 1.3	Min. 2.0	Min. 5.5
or	Max. 2.4	Max. 4.1	Max. 24.0
Viscosity @ 100 degrees F.			
Saybolt Universal Sec.	_____	Min. 32.6	Min. 45
	Max. 34.4	Max. 40.1	Max. 125
Sulphur, % by weight, D129	Max. 0.5	Max. 1.0	Max. 2.0
Copper strip corrosion, D130	Max. No. 3	Max. No. 3	_____
Cetane number, D613 or D976	Min. 40	Min. 40	Min. 30

(p) The word "kerosene" shall include lamp oil, illuminating oil and coal oil which shall conform to the detailed requirements set forth in the current American Society for Testing and Materials Specification for Kerosene (ASTM D3699). All tests shall be in accordance with the applicable American Society for Testing and Material Methods as set forth in ASTM D3699. The detailed requirements are listed below:

(i) The oil shall be free of water and suspended matter.

(ii) The color shall not be darker than number plus sixteen (16) on the Saybolt scale, as determined by ASTM D156.

(iii) The flash point shall, by ASTM D56, not be lower than one hundred degrees (100°) Fahrenheit when determined in Tagliabue closed type tester, as determined by ASTM D56.

(iv) The sulphur content shall not exceed four one-hundredths percent (0.04%) for No. 1-K kerosene and thirty one-hundredths percent (0.30%) for No. 2-K kerosene. The method of determination shall be ASTM D1266. No. 1-K kerosene is a special low-sulphur grade kerosene suitable for use in nonflue-connected kerosene burner appliances and in wick-fed illuminating lamps. No. 2-K kerosene is suitable for use in flue-connected burner appliances and in wick-fed illuminating lamps.

(v) The distillation ten percent (10%) point shall not be higher than four hundred one degrees (401°) Fahrenheit, as determined by ASTM D86.

(vi) The distillation end point shall not be higher than five hundred seventy-two degrees (572°) Fahrenheit, as determined by ASTM D86.

(vii) The oil shall not show a cloud point at five degrees (5°) Fahrenheit, as determined by ASTM D2500.

(viii) The oil shall burn freely and steadily for sixteen (16) hours, as determined by ASTM D187.

(ix) The gravity shall not be less than degrees API 41, as determined by ASTM D1298.

(x) The corrosion test results shall be No. 1 Maximum in a three-hour at two hundred twelve degrees (212°) Fahrenheit test, as determined by ASTM D130.

(q) Racing gasoline means any gasoline which is sold for racing purposes. Racing gasoline may be sold from retail dispensing equipment under the following conditions:

(i) The product brand name and octane number shall be registered with the Commissioner of Agriculture and Commerce and the State Chemist.

(ii) The manufacturer shall forward a list of marketers selling these product(s) and the product(s) being sold by each marketer.

(iii) Marketers shall register their retail outlets by location and provide a list of the product(s) sold for each retail outlet.

(iv) The dispensing equipment shall contain a conspicuous sign stating that the fuel is racing gasoline. The dispensing equipment shall not contain any kind of representation indicating that the product is suitable for vehicles other than for racing.

(v) The dispensing equipment shall be dedicated to and isolated from any other motor fuel dispensing equipment in a manner that a vehicle cannot access both the commercial gasoline and the racing gasoline at the same time.

(vi) Any violation shall result in revocation of the approval to market and/or confiscation of the product.

(vii) The Commissioner of Agriculture and Commerce (the "commissioner") and the State Chemist are hereby given

authority to change the specifications set forth in this section to comply with the currently recommended ASTM or federally required specifications.

(2) This section shall stand repealed on July 1, * * * 2023.

SECTION 2. Section 75-55-37, Mississippi Code of 1972, is amended as follows:

75-55-37. (1) The commissioner or his duly appointed representatives shall have the right to request an inspection of any pump, truck, or other equipment, and if upon such inspection any such pump, truck, or other equipment is found to be inaccurate to the extent that a test thereof shows a deficiency of more than twenty-five (25) cubic inches on a five (5) gallon measurement, or if the right to inspect any such pump, truck, or other equipment is refused or denied the commissioner, or his duly authorized representatives, he or they shall have the right to immediately close and lock said pump and other equipment or to seal same with the commissioner's seal. If such pump, truck, or other equipment is found to be inaccurate but the deficiency is twenty-five (25) cubic inches or less on a five (5) gallon measurement, then the commissioner or his representative shall give the owner or operator thereof forty-eight (48) hours within which to correct such inaccuracy and if such person fails or refuses to correct same within said period then the commissioner or his representative shall have the right to lock and seal such pump or other equipment in the same manner as provided above.

It shall be prima facie presumed upon any refusal to allow the right to inspect that the pump, truck, or other equipment sought to be inspected is inaccurate to the extent set forth above, or is operating in violation of this chapter. When any such pump or other equipment is locked or sealed, it may not be unlocked or the seal thereon broken except in the presence of a mechanic or other person called for the purpose of repairing the inaccuracy in the machinery of such pump or other equipment, and such inaccuracy shall be immediately thereafter repaired, and the pump or other equipment properly regulated. The commissioner may, in his discretion, require an affidavit from the mechanic repairing such pump or other equipment, or any other proof which he may deem advisable to the effect that said pump was unlocked or the seal thereon broken in the presence of such mechanic, and that the inaccuracies therein were thereupon completely repaired or regulated.

When a state or factory seal is broken on the measuring adjustment device on a retail pump, it shall be the duty of the station operator to notify the commissioner by United States mail, within twenty-four (24) hours, after the breaking of said seal. After the commissioner has received written notice as herein provided and he or his agent has resealed the measuring adjustment device on the pump or pumps at this station, it shall be unlawful for the owner or operator of the station or any of his employees to break a state or factory seal on the measuring adjustment

device on any pump at the station during the ensuing ninety (90) days without the prior approval of the commissioner or his agent.

The State of Mississippi shall have a lien on all pumps, trucks, and other equipment used by any distributor, or other person, in the operation of his business for any tax or penalty due the State of Mississippi because of any violation of this chapter. Such lien shall be paramount to any and all private liens and all the provisions set out in Chapter 7, Title 85, Mississippi Code of 1972, shall be applicable herein for the purpose of securing the enforcement of said lien, and particularly the right to secure the issuance of a writ of summons and seizure and proceedings had and done after the issuance of said writ shall be applicable. Provided, however, that the commissioner shall not be required to give any bond in any such case.

Any person or officer, agent or employee thereof who shall violate any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding One Hundred Dollars ($100.00) for the first offense and not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00) for each subsequent offense or imprisonment in the county jail for a period not to exceed ninety (90) days or both.

(2) If a person who, by himself, by his agent, or as the servant or agent of another person commits a violation of this

chapter, the commissioner or his designee may impose any, all or a combination of the following penalties:

(a) A stop sale order for any engine fuel, nonengine fuel, automotive lubricant or any other petroleum product not in compliance with this chapter. A remand of the stop sale order may be issued if the engine fuel, nonengine fuel, automotive lubricant or petroleum product is brought into full compliance with this chapter. The stop sale order may be appealed to the commissioner or his designee within twenty (20) days from the receipt of the order.

(b) A warning letter for violations of this chapter.

(c) A civil penalty of not more than Three Thousand Dollars ($3,000.00) per violation. A person may request an administrative hearing within thirty (30) days of receipt of the notice of the penalty. The commissioner or his designee shall conduct a hearing after giving reasonable notice to the person. The decision may be appealed to the Circuit Court of the First Judicial District of Hinds County.

(3) If the person has exhausted his administrative appeals, he shall pay the civil penalty within thirty (30) days after the effective date of the final decision. If the person fails to pay the penalty, the commissioner may bring a civil action in any court of competent jurisdiction to recover the penalty.

(4) The commissioner is authorized to suspend, revoke and/or permanently deny a registration under the Petroleum Products

Inspection Law of Mississippi to any person, firm, corporation or other organization determined to be guilty of two (2) or more violations per location, per year, of the Petroleum Products Inspection Law of Mississippi and the rules and regulations in force pursuant thereto.

(5) In lieu of, or in addition to, the penalties provided above, the commissioner and the State Chemist shall have the power to institute and maintain in the name of the state any and all proceedings necessary or appropriate to enforce the provisions of the Petroleum Products Inspection Law of Mississippi and the rules and regulations in force pursuant thereto, in the appropriate circuit, chancery, county or justice court in which venue may lie. The commissioner and the State Chemist may obtain mandatory or prohibitory injunctive relief, whether temporary or permanent, and it shall not be necessary for the state to post a bond or prove that no adequate remedy is available at law.

(6) All penalties assessed by the commissioner under this section shall be deposited in the State General Fund.

(7) This section shall stand repealed on July 1, * * * 2023.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 777

Description: Counselors; revise certain provisions of licensing laws.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/11	(H) Referred To Public Health and Human Services
2	02/20	(H) Title Suff Do Pass
3	03/04	(H) Passed {Vote}
4	03/05	(H) Transmitted To Senate
5	05/12	(S) Referred To Public Health and Welfare; Finance
6	06/02	(S) DR - TSDP: PH To FI
7	06/09	(S) Title Suff Do Pass
8	06/11	(S) Passed {Vote}
9	06/12	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/18	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 073-0030-0009, A 073-0030-0029

----- Additional Information -----

House Committee: Public Health and Human Services
Senate Committee: Public Health and Welfare, Finance

Principal Author: Aguirre

Title: AN ACT TO AMEND SECTION 73-30-9, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CERTAIN FEES CHARGED TO APPLICANTS FOR LICENSURE AS A LICENSED PROFESSIONAL COUNSELOR OR A PROVISIONAL LICENSED PROFESSIONAL COUNSELOR ARE APPLICATION FEES AND NOT LICENSING FEES; TO DELETE THE REQUIREMENT THAT APPLICANTS FOR RENEWAL OF A PROVISIONAL LICENSED PROFESSIONAL COUNSELOR LICENSE UNDERGO A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK; TO CLARIFY THAT APPLICANTS FOR RENEWAL OF A LICENSED

PROFESSIONAL COUNSELOR LICENSE WILL UNDERGO A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK AS REQUIRED BY THE BOARD; TO AMEND SECTION 73-30-29, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RENEWAL OF LICENSE FEE AND LICENSING PERIOD FOR PROVISIONAL LICENSED PROFESSIONAL COUNSELORS; TO DELETE THE AUTHORITY OF THE BOARD TO INCREASE RENEWAL FEES; TO CLARIFY THE CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF A PROVISIONAL LICENSED PROFESSIONAL COUNSELOR LICENSE; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 777

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Aguirre

To: Public Health and Human Services

HOUSE BILL NO. 777

AN ACT TO AMEND SECTION 73-30-9, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CERTAIN FEES CHARGED TO APPLICANTS FOR LICENSURE AS A LICENSED PROFESSIONAL COUNSELOR OR A PROVISIONAL LICENSED PROFESSIONAL COUNSELOR ARE APPLICATION FEES AND NOT LICENSING FEES; TO DELETE THE REQUIREMENT THAT APPLICANTS FOR RENEWAL OF A PROVISIONAL LICENSED PROFESSIONAL COUNSELOR LICENSE UNDERGO A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK; TO CLARIFY THAT APPLICANTS FOR RENEWAL OF A LICENSED PROFESSIONAL COUNSELOR LICENSE WILL UNDERGO A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK AS REQUIRED BY THE BOARD; TO AMEND SECTION 73-30-29, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RENEWAL OF LICENSE FEE AND LICENSING PERIOD FOR PROVISIONAL LICENSED PROFESSIONAL COUNSELORS; TO DELETE THE AUTHORITY OF THE BOARD TO INCREASE RENEWAL FEES; TO CLARIFY THE CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF A PROVISIONAL LICENSED PROFESSIONAL COUNSELOR LICENSE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-30-9, Mississippi Code of 1972, is amended as follows:

73-30-9. (1) The board shall issue a license as a provisional licensed professional counselor, without regard to race, religion, sex or national origin, to each applicant who furnishes satisfactory evidence of the following:

(a) The applicant has completed an application on a form prescribed by the board accompanied by a nonrefundable * * * application fee of Fifty Dollars ($50.00).

(b) The applicant is at least twenty-one (21) years of age.

(c) The applicant is of good moral character.

(d) The applicant is a citizen of the United States, or has an immigration document to verify legal alien work status in the United States. The immigration document must be current and issued by the United States Immigration Bureau.

(e) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder.

(f) The applicant shall have a minimum acceptable graduate semester hour or acceptable quarter-hour master's degree as determined by * * * the board primarily in counseling or a related counseling field from a regionally or nationally accredited college or university program in counselor education or a related counseling program subject to * * * board * * * approval. All applicants shall provide official transcripts of all graduate work.

(g) The applicant must pass the examination approved by the board, as set forth in Section 73-30-7(5).

(h) A provisional license issued under this section shall require that the individual confine one's practice to a

board-approved site and accrue counseling experience under the supervision of a board-qualified supervisor.

(i) The limited license shall be renewable for not more than four (4) years, with a nonrefundable license fee * * * in the amount provided in Section 73-30-29. Licensees may appeal to the board for an extension of the renewal period.

(j) Each applicant for licensure * * * shall apply to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety and the Federal Bureau of Investigation Identification Division for this purpose.

(2) The board shall issue a license as a licensed professional counselor, without regard to race, religion, sex or national origin, to each applicant who furnishes satisfactory evidence of the following:

(a) The applicant has completed an application on a form prescribed by the board accompanied by a nonrefundable full application * * * fee of Fifty Dollars ($50.00).

(b) The applicant is at least twenty-one (21) years of age.

(c) The applicant is of good moral character.

(d) The applicant is a citizen of the United States, or has an immigration document to verify legal alien work status in the United States. The immigration document must be current and issued by the United States Immigration Bureau.

(e) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder.

(f) The applicant shall have a minimum acceptable graduate semester hour or acceptable quarter-hour master's degree as determined by the * * * board * * * primarily in counseling or a related counseling field from a regionally or nationally accredited college or university program in counselor education or a related counseling program subject to board approval. All applicants shall provide official transcripts of all graduate work.

(g) The applicant must pass the examination approved by the board, as set forth in Section 73-30-7(5).

(h) The applicant has had post graduate supervised experience in professional counseling acceptable to the board. Applicant shall submit verification of supervised experience.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(i) The board shall require each first-time applicant for licensure and may require applicants for license renewal to

undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant for licensure and each renewal applicant as required by the board shall apply to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety and the Federal Bureau of Investigation Identification Division for this purpose.

SECTION 2. Section 73-30-29, Mississippi Code of 1972, is amended as follows:

73-30-29. (1) Except as provided in Section 33-1-39, the renewal of license fee for licensed professional counselors under this chapter shall be Two Hundred Twenty Dollars * * * ($220.00) per biennial licensing renewal period, and the renewal of license fee for provisional licensed professional counselors under this chapter shall be Fifty Dollars ($50.00) per annual licensing renewal period. * * *

(2) * * * Provisional licensed professional counselor licenses will be renewed annually on or before June 30. The evidence of the following must be received in the office of the board on or before June 30 of the year of renewal by every license

holder who intends to continue to practice: Each active provisional licensed professional counselor licensee must accrue six (6) continuing education hours during the preceding license period, two (2) of which must involve topics in professional ethics or legal issues in the delivery of counseling services.

(3) * * * Licensed professional counselor licenses will be renewed biennially on or before June 30 of the applicable year. The evidence of the following must be received in the office of the * * * board * * * on or before June 30 of the year of renewal by every license holder who intends to continue to practice: Each active licensed professional counselor * * * licensee must accrue twenty-four (24) continuing education hours during the preceding license period, six (6) of which must involve topics in professional ethics or legal issues in the delivery of counseling services.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

House Bill 858

Description: Alcohol; revise certain provisions regarding authority of Department of Revenue to dispose of seized alcohol.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(H) Referred To Ways and Means
2	02/27	(H) Title Suff Do Pass
3	03/05	(H) Passed {Vote}
4	03/06	(H) Transmitted To Senate
5	05/11	(S) Referred To Finance
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 067-0001-0018

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Finance

Principal Author: Lamar

Title: AN ACT TO AMEND SECTION 67-1-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A PERSON IS CONVICTED OF SELLING OR POSSESSING ALCOHOLIC BEVERAGES, BEER, LIGHT WINE OR RAW MATERIALS IN A MANNER PROHIBITED BY LAW, THE ALCOHOLIC BEVERAGES, BEER, LIGHT WINE OR RAW MATERIAL SEIZED IN CONNECTION WITH SUCH VIOLATION MAY BE DISPOSED OF IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF REVENUE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Lamar To: Ways and Means

HOUSE BILL NO. 858

AN ACT TO AMEND SECTION 67-1-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A PERSON IS CONVICTED OF SELLING OR POSSESSING ALCOHOLIC BEVERAGES, BEER, LIGHT WINE OR RAW MATERIALS IN A MANNER PROHIBITED BY LAW, THE ALCOHOLIC BEVERAGES, BEER, LIGHT WINE OR RAW MATERIAL SEIZED IN CONNECTION WITH SUCH VIOLATION MAY BE DISPOSED OF IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF REVENUE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 67-1-18, Mississippi Code of 1972, is amended as follows:

67-1-18. (1) Any alcoholic beverage, light wine, beer or raw material seized under the authority of this chapter, Chapter 3 of Title 67, or Chapter 31 of Title 97, Mississippi Code of 1972, shall be submitted to the custody of the Mississippi Department of Revenue for disposition.

(2) (a) Except as otherwise provided in this paragraph, the department shall not dispose of any alcoholic beverage, light wine, beer or raw material without first providing reasonable notice to all individuals having an interest in the property and an opportunity for them to appear and establish their right or

claim to the property. If no hearing is requested by the passage of the appropriate deadline, the department shall require the alcoholic beverages, light wine, beer or raw materials to be sold for the benefit of the state or destroyed.

(b) The provisions of paragraph (a) of this subsection shall not apply in cases in which the owner or possessor of the alcoholic beverage, light wine, beer or raw material is convicted of * * * selling or possessing alcoholic beverages, beer * * *, light wine or raw materials in a manner or location * * * prohibited by law, or convicted of a violation of Section 67-1-81(2) or 67-3-70. In such cases, the alcoholic beverage, light wine, beer or raw materials seized in connection with the violation may be disposed of in the manner prescribed by the department.

(3) (a) If the department orders the property, other than alcoholic beverages, sold, then the property shall be sold to the highest bidder, the bidder being any person, firm or government agency. The offer for sale shall be made to not less than three (3) qualified prospective buyers, by mailing them an invitation to bid, which shall describe the property, terms of sale, method of delivery, manner of bidding and fixing a time of not more than fifteen (15) days from the date of invitation for opening of bids received by the department.

(b) All bids and payment shall be made in the manner as prescribed by the department. Bids, after opening, shall be subject to public inspection.

(4) If the department orders the sale of seized alcoholic beverages, it may place the alcoholic beverages in the state inventory to be sold to authorized retailers in the same manner as other alcoholic beverages in the state inventory are sold.

(5) Any appeal from a seizure and disposal made under this section shall be made pursuant to Section 67-1-72.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 859

Description: Taxation; amend certain sections of law to make interest rates for various unpaid taxes consistent with rates provided in other sections of law.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/10	(H) Passed {Vote}
4	03/11	(H) Transmitted To Senate
5	05/11	(S) Referred To Finance
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 027-0015-0107, A 027-0031-0081, A 027-0035-0163, A 027-0041-0009, A 027-0065-0033, A 027-0065-0053, A 027-0067-0019, A 027-0069-0041, A 027-0071-0331

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Finance

Principal Author: Lamar

Title: AN ACT TO AMEND SECTIONS 27-15-107, 27-31-81, 27-35-163, 27-41-9, 27-65-33, 27-65-53, 27-67-19, 27-69-41 AND 27-71-331, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE PAYMENT OF INTEREST BY TAXPAYERS FOR FAILING TO PAY VARIOUS TAXES, TO MAKE THE INTEREST RATES PROVIDED THEREIN CONSISTENT WITH THE INTEREST RATES PROVIDED IN OTHER SECTIONS OF LAW FOR THE PAYMENT OF INTEREST; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Lamar To: Ways and Means

HOUSE BILL NO. 859

AN ACT TO AMEND SECTIONS 27-15-107, 27-31-81, 27-35-163, 27-41-9, 27-65-33, 27-65-53, 27-67-19, 27-69-41 AND 27-71-331, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE PAYMENT OF INTEREST BY TAXPAYERS FOR FAILING TO PAY VARIOUS TAXES, TO MAKE THE INTEREST RATES PROVIDED THEREIN CONSISTENT WITH THE INTEREST RATES PROVIDED IN OTHER SECTIONS OF LAW FOR THE PAYMENT OF INTEREST; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-15-107, Mississippi Code of 1972, is amended as follows:

27-15-107. (1) Every insurance company liable for the tax under the provisions hereof shall make and file with the Department of Revenue, estimated tax returns and payments for the insurance premium tax levied under Sections 27-15-103 and 27-15-109 for the first four (4) periods of each calendar year and a reconciliation return and payment for the final reporting period for each calendar year based on the actual liability of the insurance company for insurance premium taxes for that calendar year. The insurance company shall estimate the amount of insurance premium taxes to be due for each calendar year and pay

insurance premium taxes based on a percentage of that estimate as provided for in subsection (2) of this section for the first four (4) reporting periods of each calendar year. In addition to reflecting the amount of estimated tax payment being paid, the estimated return shall also contain an estimate of the gross amount of premium receipts of the insurance company subject to the insurance premium tax under Sections 27-15-103 and 27-15-109 during the reporting period. For the final reporting period for each calendar year, every insurance company shall file a reconciliation tax return reporting the balance of insurance premium taxes due for the calendar year based on insurance premiums actually received during the calendar year after the application of the estimated tax payments for the first four (4) reporting periods and any applicable credits, and pay the balance of insurance premium taxes due for the calendar year. The insurance company shall also pay with the reconciliation tax return any penalties and/or interest due for the calendar year, including any penalty and/or interest for underestimating the amount of estimated tax to be paid for the first four (4) reporting periods.

(2) The reporting periods, the amount of insurance premium tax to be paid for the reporting periods, and the due date for the tax return and payment for the reporting periods are as follows:

(a) For the first reporting period of January 1 through March 31, the percentage to be paid is one-fourth (1/4) of the

estimated tax amount. The due date for the estimated return and payment is April 20.

(b) For the second reporting period of April 1 through May 31, the percentage to be paid is one-sixth (1/6) of the estimated tax amount. The due date for the estimated return and payment is June 20.

(c) For the third reporting period of June 1 through June 30, the percentage to be paid is one-twelfth (1/12) of the estimated tax amount. The due date for the estimated return and payment is July 20.

(d) For the fourth reporting period of July 1 through September 30, the percentage to be paid is one-fourth (1/4) of the estimated tax amount. The due date for the estimated return and payment is October 20.

(e) For the final reporting period of October 1 through December 31, the balance of insurance premium tax due for the calendar year shall be paid after application of estimated payments for the first four (4) reporting periods and any applicable credits are reported on a reconciliation tax return. The due date for the return and payment, including payment of any penalty and/or interest, is March 1.

(3) Any insurance company liable for the insurance premium tax levied under Sections 27-15-103 and 27-15-109 that fails to file an estimated tax return or a reconciliation tax return and fails to pay the required estimated tax payments with the

estimated tax return or the balance of insurance premium tax with the reconciliation tax return by the due date for such return and payment, shall be liable for a penalty in the amount of ten percent (10%) of the payment due and interest at the rate of * * * one-half of one percent (1/2 of 1%) per month from the due date of the payment until paid.

(4) Any insurance company that underestimates the estimated amount of insurance premium tax to be paid for any of the first four (4) reporting periods by more than ten percent (10%) shall be liable for penalty in the amount of ten percent (10%) of the amount by which the insurance company underestimated the amount of insurance premium tax due. The amount of this underestimate shall be determined by subtracting the amount paid for that reporting period from an amount determined by multiplying the actual annual insurance premium taxes due for the calendar year times the percentage of estimated tax to be paid for the reporting period. The insurance company shall also be liable for interest on the underestimated amount at the rate of * * * one-half of one percent (1/2 of 1%) per month from the due date for the reporting period until the insurance company pays the actual annual insurance premium taxes due for the calendar year in which the reporting period is included.

(5) The Department of Revenue shall have the authority to promulgate rules and regulations, not inconsistent with this article, as it may deem necessary to enforce its provisions.

SECTION 2. Section 27-31-81, Mississippi Code of 1972, is amended as follows:

27-31-81. The mineral documentary tax shall be payable by the grantee or grantees named in and the beneficiary or real party in interest under such lease, deed, conveyance, transfer, assignment or other writing, except that as to any exception or reservation creating any such interest the tax shall be payable by the grantor or grantors in such instrument. The tax shall be due and payable upon the filing of the instrument for record, and the chancery clerk shall note the fact of the payment as provided in Section 27-31-83. Any chancery clerk, who accepts or records an instrument upon which the tax is not paid to him as required under this section, shall be liable to the county for double the amount of tax shown to have been due upon the instrument; however, the chancery clerk shall not be liable for any sum where the amount of the tax tendered is accepted by him in good faith as the proper amount due. If an insufficient amount is paid for the tax, the filing and recording of the instrument shall nevertheless be good and valid for all purposes as now provided by statute, but the additional amount which should have been paid, together with a penalty of twenty-five percent (25%) thereof and * * * <u>one-half of one percent (1/2 of 1%)</u> interest per month thereon from the due date until paid, shall be a lien on the interest conveyed, reserved or excepted therein, and a personal debt of the said

taxpayer, collectible by suit by the county for personal judgment or to enforce the lien or both.

SECTION 3. Section 27-35-163, Mississippi Code of 1972, is amended as follows:

27-35-163. (1) Except as otherwise provided in subsection (2) of this section, any person, firm or corporation aggrieved by an order of the Board of Tax Appeals affirming, in whole or in part, the assessment of property by the Department of Revenue for the purpose of ad valorem taxation may, within thirty (30) days from the date of this order, appeal with supersedeas as to the amount of taxes in controversy to the Circuit Court of the First Judicial District of Hinds County, or to the circuit court of any county in which the property, or any part thereof, is located, or to the circuit court of any county in which such person, firm or corporation whose property is assessed resides, upon giving bond with sufficient sureties, to be approved by the clerk of such court, in a sum equal to the amount of taxes due on the contested value of such property as affirmed by the Board of Tax Appeals, but never less than One Hundred Dollars ($100.00), payable to the state and conditioned to perform the judgment of the circuit court. The ad valorem taxes due on the uncontested portion of the value as determined by the Board of Tax Appeals shall be due and payable at the same time as all other ad valorem taxes are for real and personal property. The person, firm or corporation who appeals shall file with the clerk of the circuit court a petition

for appeal and review, together with the bond herein provided for, and the clerk shall thereupon give notice to the Department of Revenue, who will be the appellee in the appeal, and to the Board of Tax Appeals. The Department of Revenue shall file with the clerk of the circuit court where the petition is pending a certified copy of the assessment in issue and the Board of Tax Appeals shall file a certified copy of its order or orders in regard to this assessment. The assessment by the Department of Revenue and the order or orders of the Board of Tax Appeals are to be filed with the circuit clerk within thirty (30) days from the date that each respective agency and board received the notice from the clerk of the circuit court concerning the filing of the appeal. The matter of assessing such property shall be heard de novo by the circuit court at the first term of the court thereafter, or by the judge of the circuit court in vacation, by agreement of the parties, without a jury, and such proceeding shall be given preference over other pending matters in the court. After hearing the evidence, the circuit court, or the judge thereof in vacation, shall make an order setting aside, modifying or affirming the order of the Board of Tax Appeals. A copy of such order shall be certified by the clerk of the court to the Department of Revenue, which shall conform thereto.

If the order of the Board of Tax Appeals is affirmed, then the person, firm or corporation who appealed, and the sureties on the appeal bond, shall be liable to the state for damages at the

rate of ten percent (10%) on the amount of taxes in controversy, and all cost of such appeal.

If the Department of Revenue shall be aggrieved by an order of the Board of Tax Appeals regarding an assessment by the department for ad valorem tax purposes, the department may, within thirty (30) days from the date of the order of the Board of Tax Appeals regarding this assessment, appeal to the circuit court of any county in which the property being assessed, or any part thereof, is located or of any county in which the taxpayer resides, in like manner as in the case of any person, firm or corporation aggrieved as provided in this subsection, except no bonds shall be required of the Department of Revenue. Upon the filing of a petition for appeal or review as provided in this subsection, the clerk of the court in which the petition is filed shall thereupon issue process to the person, firm or corporation whose property is assessed, and such person, firm or corporation shall plead to the petition within thirty (30) days after the receipt of the notice.

If the state shall be aggrieved by an assessment for ad valorem tax purposes by the Department of Revenue or by an order of the Board of Tax Appeals regarding an assessment by the Department of Revenue for ad valorem * * * tax purposes, the Attorney General or the district attorney, if all the property sought to be taxed is located within the judicial district for which such district attorney is elected, may, within thirty (30)

days from the date of the notice from the Department of Revenue to the tax assessor or tax assessors in the county or counties where the property being assessed is located of the amount of the final assessment, appeal to the circuit court of any county in which the property, or any part thereof, is located or of any county in which the taxpayer resides, in like manner as in the case of any person, firm or corporation aggrieved as hereinbefore provided, except no bonds shall be required of the Attorney General or district attorney who may appeal. Upon the filing of a petition for appeal or review as herein provided, the clerk of the court in which the petition is filed shall thereupon issue process to the person, firm or corporation whose property is assessed, and such person, firm or corporation shall plead to the petition within twenty (20) days after the receipt of the notice.

In the event more than one (1) person appeals an assessment by the Department of Revenue for ad valorem tax purposes or an order of the Board of Tax Appeals regarding an assessment by the Department of Revenue for ad valorem tax purposes under this section, the matter shall be heard by the circuit court of the county in which the petition for appeal was first filed, unless otherwise agreed by the parties.

Any taxpayer aggrieved by an order of the circuit court may appeal, with supersedeas, to the Supreme Court by giving bond in the amount and conditioned as provided in the preceding paragraphs of this section.

The officer who appealed the matter from the ad valorem assessment of the Department of Revenue or from the order of the Board of Tax Appeals concerning an ad valorem assessment by the Department of Revenue may have an appeal to the Supreme Court without bond.

If the Department of Revenue appeals the matter from the order of the Board of Tax Appeals concerning an assessment by the Department of Revenue for ad valorem tax purposes, it may have an appeal to the Supreme Court without bond.

In the event the appeal by the taxpayer delays the collection of the tax due by him, then the taxpayer shall be liable for and shall pay, at the time the taxes are paid to the tax collector whose duty it is to collect the taxes, interest at the rate of * * * six percent (6%) per annum from the date the taxes were due until paid.

(2) Any telephone company operating in more than six (6) counties, which is aggrieved by an assessment by the Department of Revenue for ad valorem tax purposes, may, within thirty (30) days from the date of the order of the Board of Tax Appeals regarding this assessment, appeal without bond as to the amount of taxes in controversy to the Circuit Court of the First Judicial District of Hinds County, or to the circuit court of any county in which the property, or any part thereof, is located, or to the circuit court of any county in which such telephone company resides. Notwithstanding such appeal, all of the ad valorem taxes due on

the value as set by the Department of Revenue as adjusted by the Board of Tax Appeals shall be due and payable at the same time as all other ad valorem taxes are for real and personal property; provided, however, that the ad valorem taxes due on the contested portion of such value shall be paid under protest. Such telephone company shall file with the clerk of the circuit court a petition for appeal and review and the clerk shall thereupon give notice to the Department of Revenue, who will be the appellee in the appeal, and to the Board of Tax Appeals. The Department of Revenue shall file with the clerk of the circuit court where the petition is pending a certified copy of the assessment in issue and the Board of Tax Appeals shall file a certified copy of its order or orders in regard to this assessment. The assessment by the Department of Revenue and the order or orders of the Board of Tax Appeals are to be filed with the circuit clerk within thirty (30) days from the date that each respective agency and board received the notice from the clerk of the circuit court concerning the filing of the appeal. The matter of assessing such property shall be heard de novo by the circuit court at the first term of the court thereafter, or by the judge of the circuit court in vacation, by agreement of the parties, without a jury, and such proceeding shall be given preference over other pending matters in the court. After hearing the evidence, the circuit court, or the judge thereof in vacation, shall make an order setting aside, modifying or affirming the order of the Board of Tax Appeals. A copy of

such order shall be certified by the clerk of the court to the Department of Revenue, which shall conform thereto.

If the Department of Revenue shall be aggrieved by an order of the Board of Tax Appeals regarding an assessment by the department for ad valorem tax purposes, the department may, within thirty (30) days from the date of the order of the Board of Tax Appeals regarding this assessment, appeal to the circuit court of any county in which the property being assessed, or any part thereof, is located or of any county in which the taxpayer resides, in like manner as in the case of any person, firm or corporation aggrieved as provided in this subsection, except no bonds shall be required of the Department of Revenue. Upon the filing of a petition for appeal or review as provided in this subsection, the clerk of the court in which the petition is filed shall thereupon issue process to the person, firm or corporation whose property is assessed, and such person, firm or corporation shall plead to the petition within thirty (30) days after the receipt of the notice.

If the state shall be aggrieved by an assessment for ad valorem purposes by the Department of Revenue or by an order of the Board of Tax Appeals regarding an assessment by the Department of Revenue for ad valorem tax purposes, the Attorney General or the district attorney, if all the property sought to be taxed is located within the judicial district for which such district attorney is elected, may, within thirty (30) days from the date of

the notice from the Department of Revenue to the tax assessor or tax assessors in the county or counties where the property being assessed is located of the amount of the final assessment, appeal without bond to the circuit court of any county in which the property, or any part thereof, is located or of any county in which such telephone company resides. Upon the filing of a petition for appeal or review as herein provided, the clerk of the court in which the petition is filed shall thereupon issue process to such telephone company, and such telephone company shall plead to the petition within thirty (30) days after the receipt of the notice.

In the event more than one (1) person appeals an assessment of a telephone company by the Department of Revenue for ad valorem tax purposes or an order of the Board of Tax Appeals regarding an assessment of a telephone company by the Department of Revenue for ad valorem tax purpose, the matter shall be heard by the circuit court of the county in which the petition for appeal was first filed, unless otherwise agreed by the parties.

Any such telephone company aggrieved by an order of the circuit court may appeal without bond to the Supreme Court.

The officer who appealed the matter from ad valorem assessment of the Department of Revenue of a telephone company or from the order of the Board of Tax Appeals concerning an ad valorem tax assessment by the Department of Revenue of a telephone company may have an appeal to the Supreme Court without bond.

If the Department of Revenue appeals the matter from the order of the Board of Tax Appeals concerning an assessment of a telephone company by the Department of Revenue for ad valorem tax purposes, it may have an appeal to the Supreme Court without bond.

If the value as set by the final assessment of the Department of Revenue of the telephone company, including any adjustment ordered by the Board of Tax Appeals, is reduced by the courts as a result of appeals filed by such telephone company, the ad valorem taxes attributable to such reduction shall be disposed of by each affected local taxing district in the following manner:

(a) (i) Such local telephone company shall be entitled to a refund equal to the amount of ad valorem taxes paid by such company to the taxing district which are attributable to such reduction in value, less the portion of any refunds previously received by such telephone company pursuant to Section 27-38-5, which are attributable to such reduction in value.

(ii) If the taxing district has not paid the full amount of the refund required by this subsection by the time that ad valorem taxes become due and payable by such telephone company to such taxing district for any subsequent year or years, such telephone company shall be entitled to take a credit against the ad valorem tax liability for such subsequent year or years up to the total amount of the refund owed to such telephone company pursuant to this paragraph (a).

(b) (i) The remaining portion of the ad valorem taxes attributable to such reduction shall be paid by the taxing district to the state, and such amount shall be credited to the Telecommunications Ad Valorem Tax Reduction Fund.

(ii) To the extent that the taxing district has not fully paid to the state the amount required by this subsection, any monies due by the state to such local taxing jurisdiction shall be offset until such amount is fully paid.

SECTION 4. Section 27-41-9, Mississippi Code of 1972, is amended as follows:

27-41-9. (1) If any person fails to pay the tax levied and assessed against him when due, he shall be required to pay, in addition to the amount of taxes unpaid after February 1, interest thereon at the rate of * * * one-half of one percent (1/2 of 1%) per month, or fractional part thereof, from February 1 to the date of payment of such taxes. When the due date for any payment shall fall on a Saturday, Sunday or legal holiday then the payment shall be received by the tax collector on the first working day after such day or days without any interest being owed by the taxpayer.

The interest charge of * * * one-half of one percent (1/2 of 1%) shall be collected and apportioned and paid into the state, county, levee board or drainage district or municipal treasury. That portion paid into the county or municipal treasury shall be paid into the general fund of such county or municipality.

If any taxpayer neglects or refuses to pay his taxes on the due date thereof, the said taxes shall bear interest at the rate of * * * one-half of one percent (1/2 of 1%) per month or fractional part thereof from the delinquent date to the date payment of such taxes is made; provided that because of unusual conditions in any county where neither the taxpayer nor the tax collector is negligent or responsible for the delay incident to such tax payments, the Governor of the state may by proclamation before, on or after the due date of such tax payments extend the time for the imposition of this penalty for a period not to exceed sixty (60) days, and if necessary, for two (2) additional periods not to exceed sixty (60) days each.

(2) Such proclamation shall be filed with the clerk of the board of supervisors of the county affected thereby and shall not become effective until so filed. The proclamation shall be spread at large upon the minutes of the next regular meeting of the board of supervisors held after the date of the filing thereof.

SECTION 5. Section 27-65-33, Mississippi Code of 1972, is amended as follows:

27-65-33. (1) (a) Except as otherwise provided in this section, the taxes levied by this chapter shall be due and payable on or before the twentieth day of the month next succeeding the month in which the tax accrues, except as otherwise provided. Returns and payments placed in the mail must be postmarked by the due date in order to be considered timely filed, except when the

due date falls on a weekend or holiday, returns and payments placed in the mail must be postmarked by the first working day following the due date in order to be considered timely filed. The taxpayer shall make a return showing the gross proceeds of sales or the gross income of the business, and any and all allowable deductions, or exempt sales, and compute the tax due for the period covered.

(b) As compensation for collecting sales and use taxes, complying fully with the applicable statutes, filing returns and supplements thereto and paying all taxes by the twentieth of the month following the period covered, the taxpayer may discount and retain two percent (2%) of the liability on each return subject to the following limitations:

(i) The compensation or discount shall not apply to taxes levied under the provisions of Sections 27-65-19 and 27-65-21, or on charges for ginning cotton under Section 27-65-23.

(ii) The compensation or discount shall not apply to taxes collected by a county official or state agency.

(iii) The compensation or discount shall not exceed Fifty Dollars ($50.00) per month, or Six Hundred Dollars ($600.00) per calendar year, per business location on each state sales tax return, or on each use tax return.

(iv) The compensation or discount shall not apply to any wholesale tax, the rate of which is equal to or greater than the tax rate applicable to retail sales of the same property

or service. The retailer of such items shall be entitled to the compensation based on the tax computed on retail sales before application of the credit for any tax paid to the wholesaler, jobber or other person.

(v) The compensation or discount allowed and taken for any filing period may be reassessed and collected when an audit of a taxpayer's records reveals a tax deficiency for that period.

(c) As compensation for collecting any tax imposed under the authority of a local and private law of the State of Mississippi which is collected and paid to the Department of Revenue in the same or similar manner that state sales taxes are collected and paid, complying fully with such applicable law, filing returns and supplements thereto and paying all taxes by the twentieth of the month following the period covered, the taxpayer may discount and retain two percent (2%) of the liability on each return subject to the following limitations:

(i) The compensation or discount shall not apply to taxes collected by a county official or state agency.

(ii) The compensation or discount shall not exceed Fifty Dollars ($50.00) per month, or Six Hundred Dollars ($600.00) per calendar year, per business location on each tax return.

(iii) The compensation or discount allowed and taken for any filing period may be reassessed and collected when

an audit of a taxpayer's records reveals a tax deficiency for that period.

(2) A taxpayer required to collect sales taxes under this chapter and having an average monthly sales tax liability of at least Fifty Thousand Dollars ($50,000.00) for the preceding calendar year shall pay to the Department of Revenue on or before June 25, 2014, and on or before the twenty-fifth day of June of each succeeding year thereafter, an amount equal to at least seventy-five percent (75%) of such taxpayer's estimated sales tax liability for the month of June of the current calendar year, or an amount equal to at least seventy-five percent (75%) of the taxpayer's sales tax liability for the month of June of the preceding calendar year. For the purposes of calculating a taxpayer's estimated sales tax liability for the month of June of the current calendar year, the taxpayer does not have to include taxes due on credit sales for which the taxpayer has not received payment before June 20. Payments required to be made under this subsection must be received by the Department of Revenue no later than June 25 in order to be considered timely made. A taxpayer that fails to comply with the requirements of this subsection may be assessed a penalty in an amount equal to ten percent (10%) of the difference between any amount the taxpayer pays pursuant to this subsection and the taxpayer's actual sales tax liability for the month of June for which the estimated payment was required to be made. Payments made by a taxpayer under this subsection shall

not be considered to be collected for the purposes of any sales tax diversions required by law until the taxpayer files a return for the actual sales taxes collected during the month of June. This subsection shall not apply to any agency, department or instrumentality of the United States, any agency, department, institution, instrumentality or political subdivision of the State of Mississippi, or any agency, department, institution or instrumentality of any political subdivision of the State of Mississippi.

(3) All returns shall be sworn to by the taxpayer, if made by an individual, or by the president, vice president, secretary or treasurer of a corporation, or authorized agent, if made on behalf of a corporation. If made on behalf of a partnership, joint venture, association, trust, estate, or in any other group or combination acting as a unit, any individual delegated by such firm shall swear to the return on behalf of the taxpayer. The commissioner may prescribe methods by which the taxpayer may swear to his return.

(4) The commissioner may promulgate rules and regulations to require or permit filing periods of any duration, in lieu of monthly filing periods, for any taxpayer or group thereof.

(5) The commissioner may require the execution and filing by the taxpayer with the commissioner of a good and solvent bond with some surety company authorized to do business in Mississippi as surety thereon in an amount double the aggregate tax liability by

such taxpayer for any previous three-month period within the last calendar year or estimated three (3) months' tax liability. The bond is to be conditioned for the prompt payment of such taxes as may be due for each such return.

(6) The commissioner, for good cause, may grant such reasonable additional time within which to make any return required under the provisions of this chapter as he may deem proper, but the time for filing any return shall not be extended beyond the twentieth of the month next succeeding the regular due date of the return without the imposition of interest at the rate of * * * one-half of one percent (1/2 of 1%) per month or fractional part of a month from the time the return was due until the tax is paid.

(7) For persistent, willful or recurring failure to make any return and pay the tax shown thereby to be due by the time specified, there shall be added to the amount of tax shown to be due ten percent (10%) damages, or interest at the rate of * * * one-half of one percent (1/2 of 1%) per month, or both.

(8) Any taxpayer may, upon making application therefor, obtain from the commissioner an extension of time for the payment of taxes due on credit sales until collections thereon have been made. When such extension is granted, the taxpayer shall thereafter include in each monthly or quarterly report all collections made during the preceding month or quarter, and shall pay the taxes due thereon at the time of filing such report. Such

permission may be revoked or denied at the discretion of the commissioner when, in his opinion, a total sales basis will best reflect the taxable income or expedite examination of the taxpayer's records.

(9) Any taxpayer reporting credit sales before collection thereof has been made may take credit on subsequent returns or reports for bad debts actually charged off, if such amounts charged off have previously been included in taxable gross income or taxable gross proceeds of sales, as the case may be, and the tax paid thereon. However, any amounts subsequently collected on accounts that have been charged off as bad debts shall be included in subsequent reports and the tax shall be paid thereon.

(10) In cases where an extension of time has been granted by the commissioner for payment of taxes due on credit sales and the taxpayer thereafter discontinues the business, such taxpayer shall be required to file with the commissioner within ten (10) days, or such further time as the commissioner may direct, from the date of the discontinuance of such business, a special report showing the amounts of any credit sales which have not been included in determining the measure of the tax previously paid and any other information with reference to credit sales as the commissioner may require. The commissioner shall thereupon investigate the facts with reference to credit sales and the condition of the accounts, and shall determine, from the best evidence available, the value of all open accounts, notes or other evidence of debt arising from

credit sales. The value of all notes, open accounts and other evidence of debt, as thus determined by the commissioner, shall be used in determining the amount of the tax for which such taxpayer shall be liable. When the amount of the tax shall have been ascertained, the taxpayer shall be required to pay the same within ten (10) days or such further time as the commissioner may allow, notwithstanding the fact that such note or accounts may still remain uncollected.

SECTION 6. Section 27-65-53, Mississippi Code of 1972, is amended as follows:

27-65-53. If the commissioner finds that the taxpayer has overpaid his tax for any reason and the taxpayer has discontinued business and there is no subsequent liability upon which the excess may be credited, or if the amount of the excess so paid shall exceed the estimated liability for the next twelve (12) months, the excess shall be refunded to the taxpayer. Such amount shall be certified to the State Auditor of Public Accounts by the commission. The said auditor is hereby authorized to make such investigation and audit of the claim as he finds necessary. If he finds that the commissioner is correct in his determination, the auditor may issue his warrant to the State Treasurer in favor of the taxpayer for the amount of tax erroneously paid into the State Treasury, such refunds to be made from current sales tax collections. If part of the overpayment has been disbursed to any municipality or state institution of higher learning, under

authority of Section 27-65-75, the municipality or state institution of higher learning, having erroneously received the money, shall adjust the amount with the commissioner, or the overpayment may be withheld by the state from any funds due by the state to the municipality or state institution of higher learning.

Provided, that where the taxpayer has overpaid his tax, the commissioner may give credit for same and allow the taxpayer to take credit on a subsequent return or, if necessary, in his discretion, have the taxpayer file for a refund as provided herein.

If any overpayment of tax as reflected in an application or amended return, or both, filed by the taxpayer, and verified by the commissioner or otherwise determined to be due by the commissioner or commission, is not refunded or credited to a taxpayer's account within ninety (90) days after the application or amended return is filed or the date the commission or commissioner determines a refund is due, whichever is later, interest at the rate of * * * one-half of one percent (1/2 of 1%) per month shall be allowed on such overpayment computed for the period after expiration of the ninety-day period provided herein to the date of payment.

SECTION 7. Section 27-67-19, Mississippi Code of 1972, is amended as follows:

27-67-19. The commissioner may grant a reasonable extension of time for making any return and paying the tax due thereon, but

the time for filing any such return shall not be extended beyond the twentieth of the month next succeeding the regular due date of such return without the imposition of interest at the rate of * * * one-half of one percent (1/2 of 1%) per month, or fractional part of a month, from the regular due date of such return until the tax is paid.

For persistent, willful or recurring failure to make any return and pay the tax shown thereby to be due, by the time specified herein, there shall be added to the amount of tax shown to be due, ten percent (10%) damages, or interest at the rate of * * * one-half of one percent (1/2 of 1%) per month, or both.

SECTION 8. Section 27-69-41, Mississippi Code of 1972, is amended as follows:

27-69-41. If any person subject to the provisions of this chapter, or any rules or regulations promulgated by the commissioner under authority hereof, shall be found to have failed to affix the stamps required, or to have the same affixed as herein provided, or to pay any tax due hereunder, or to have violated any of the provisions of this chapter, or rules and regulations promulgated by the commissioner in the administration of this chapter, there shall be collected from such person, in addition to the tax that may be due, a penalty of fifty percent (50%) of the tax due; and the commissioner, or his duly authorized representative, may make immediate demand upon such person for the payment of all such taxes and penalties. Provided, that the

commissioner, for good reason shown, may remit all or any part of the penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate of * * * six percent (6%) per annum. The keeping of any unstamped cigarettes or untaxed tobacco at a place of business where such articles are sold, shall be prima facie evidence of intent to violate the provisions of this chapter.

All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provisions of said chapter, and all other requirements and duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of this chapter, and the commissioner shall exercise all the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in the Sales Tax Law, except where there is conflict, then the provisions of this chapter shall control.

SECTION 9. Section 27-71-331, Mississippi Code of 1972, is amended as follows:

27-71-331. If any manufacturer, wholesaler, distributor, brewpub or small craft brewery, subject to the provisions of this article, shall fail to pay any tax due under the provisions of this article, within the time, and in the manner, herein provided, the commissioner is authorized to assess, and collect, such tax, together with interest thereon from the date such tax became due

at the rate of * * * one-half of one percent (1/2 of 1%) per month, and in addition to the amount of the tax due and the interest accrued thereon, the commissioner may, in his discretion, assess and collect, from such delinquent taxpayer, a penalty equal to the amount of the tax found to be due.

SECTION 10. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 863

Description: Ad valorem tax; revise certain provisions relating to assessment of public service corporations.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: January 1, 2021

History of Actions:

1	02/14	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/09	(H) Passed {Vote}
4	03/10	(H) Transmitted To Senate
5	05/11	(S) Referred To Finance
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 027-0035-0301, A 027-0035-0303, A 027-0035-0305, A 027-0035-0309, A 027-0035-0311, A 027-0035-0313, A 027-0035-0325, A 027-0035-0513, A 027-0035-0703

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Finance

Principal Author: Lamar

Title: AN ACT TO AMEND SECTIONS 27-35-301, 27-35-303, 27-35-305, 27-35-309, 27-35-311, 27-35-313 AND 27-35-325, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PROVISIONS REGARDING THE ASSESSMENT OF RAILROAD AND OTHER PUBLIC SERVICE CORPORATION PROPERTY FOR THE PURPOSES OF AD VALOREM TAXATION; TO REVISE THE DATE BY WHICH RAILROADS AND OTHER PUBLIC SERVICE CORPORATIONS MUST FILE WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT PURPOSES SCHEDULES OF PROPERTY OWNED BY SUCH CORPORATIONS; TO REVISE

THE TIME FOR WHICH THE DEPARTMENT OF REVENUE MAY GRANT AN EXTENSION FOR THE FILING OF SUCH SCHEDULES; TO REVISE THE LENGTH OF TIME THAT ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE OF SUCH PROPERTY SHALL REMAIN OPEN FOR OBJECTION; TO REVISE THE DATE BY WHICH RAILROADS AND OTHER PUBLIC SERVICE CORPORATIONS MUST FILE AN APPORTIONMENT OF THE ASSESSED VALUE OF PROPERTY OF SUCH CORPORATIONS; TO REVISE CERTAIN PROVISIONS REGARDING OBJECTIONS TO ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE; TO REVISE CERTAIN PROVISIONS REGARDING THE IMPOSITION OF A PENALTY AGAINST RAILROADS OR OTHER PUBLIC SERVICE CORPORATIONS FOR FAILURE TO FILE THE REQUIRED SCHEDULES OF PROPERTY FOR AD VALOREM TAX ASSESSMENT PURPOSES; TO AMEND SECTION 27-35-513, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PROVISIONS REGARDING THE IMPOSITION OF A PENALTY AGAINST RAILROAD CAR COMPANIES FOR FAILURE TO FILE REQUIRED STATEMENTS WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT PURPOSES; TO AMEND SECTION 27-35-703, MISSISSIPPI CODE OF 1972, TO REVISE THE DATE BY WHICH AIRLINE COMPANIES MUST FILE WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT PURPOSES SCHEDULES OF AIRCRAFT OPERATED IN THIS STATE BY SUCH COMPANIES; TO REVISE THE LENGTH OF TIME THAT ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE OF SUCH AIRCRAFT SHALL REMAIN OPEN FOR OBJECTION; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Lamar To: Ways and Means

HOUSE BILL NO. 863

AN ACT TO AMEND SECTIONS 27-35-301, 27-35-303, 27-35-305, 27-35-309, 27-35-311, 27-35-313 AND 27-35-325, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PROVISIONS REGARDING THE ASSESSMENT OF RAILROAD AND OTHER PUBLIC SERVICE CORPORATION PROPERTY FOR THE PURPOSES OF AD VALOREM TAXATION; TO REVISE THE DATE BY WHICH RAILROADS AND OTHER PUBLIC SERVICE CORPORATIONS MUST FILE WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT PURPOSES SCHEDULES OF PROPERTY OWNED BY SUCH CORPORATIONS; TO REVISE THE TIME FOR WHICH THE DEPARTMENT OF REVENUE MAY GRANT AN EXTENSION FOR THE FILING OF SUCH SCHEDULES; TO REVISE THE LENGTH OF TIME THAT ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE OF SUCH PROPERTY SHALL REMAIN OPEN FOR OBJECTION; TO REVISE THE DATE BY WHICH RAILROADS AND OTHER PUBLIC SERVICE CORPORATIONS MUST FILE AN APPORTIONMENT OF THE ASSESSED VALUE OF PROPERTY OF SUCH CORPORATIONS; TO REVISE CERTAIN PROVISIONS REGARDING OBJECTIONS TO ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE; TO REVISE CERTAIN PROVISIONS REGARDING THE IMPOSITION OF A PENALTY AGAINST RAILROADS OR OTHER PUBLIC SERVICE CORPORATIONS FOR FAILURE TO FILE THE REQUIRED SCHEDULES OF PROPERTY FOR AD VALOREM TAX ASSESSMENT PURPOSES; TO AMEND SECTION 27-35-513, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PROVISIONS REGARDING THE IMPOSITION OF A PENALTY AGAINST RAILROAD CAR COMPANIES FOR FAILURE TO FILE REQUIRED STATEMENTS WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT PURPOSES; TO AMEND SECTION 27-35-703, MISSISSIPPI CODE OF 1972, TO REVISE THE DATE BY WHICH AIRLINE COMPANIES MUST FILE WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT PURPOSES SCHEDULES OF AIRCRAFT OPERATED IN THIS STATE BY SUCH COMPANIES; TO REVISE THE LENGTH OF TIME THAT ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE OF SUCH AIRCRAFT SHALL REMAIN OPEN FOR OBJECTION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-35-301, Mississippi Code of 1972, is amended as follows:

27-35-301. The * * * Department of Revenue is constituted state * * * assessor of railroads and other public service corporations, and * * * it shall, upon the receipt or making of the schedules hereinafter provided for, assess the property of railroads, telegraph, telephone, sleeping car, express, electric power and light companies and other public service corporations liable to taxation in the state, affixing its * * * value for the purposes of ad valorem taxation so that such property shall bear its just proportion of taxation, taking into consideration the value of the franchise and the capital engaged in the business in this state. The state * * * assessor of railroads and other public service corporations may adopt other and further rules necessary and proper to ascertain the value of property to be assessed by * * * it, including the value of the franchise and amount of capital engaged in the business in this state. Provided, however, the * * * Department of Revenue shall be * * * the assessor of railroad and Class IV public service property, but shall not be the * * * assessor of the types and kinds of properties owned by the public service corporations and appraised and assessed by county tax assessors pursuant to Sections 27-35-331 through 27-35-341.

SECTION 2. Section 27-35-303, Mississippi Code of 1972, is amended as follows:

27-35-303. (1) Each person, firm, company or corporation owning and/or operating a railroad, oil or gas pipeline company, electric company or any other company listed in Section 27-35-301, owning property not situated wholly in one (1) county; and any telephone company owning property in more than six (6) counties shall, on or before the first * * * day of April in each year, file with the * * * Department of Revenue a complete schedule, under oath, on forms prescribed and furnished by the * * * Department of Revenue, of all its property, real or personal, taxable and nontaxable, owned by it on the first day of the preceding January, setting forth therein the value of the whole, the total amount of capital stock, its par value and its actual value, and the value of its franchise, the gross amount of receipts in the year preceding; all real, personal or mixed property belonging to the company within the state, not enumerated, with its value; a list of all lands in this state owned, describing the same and giving the value thereof, the gross amount of receipts the year preceding earned within and from this state; and if any of said property is claimed to be exempt from taxation, it shall be separately stated and valued, and the law cited under which the claim is made. It shall not be necessary that a rendition on any motor vehicles be made as defined by the "Motor Vehicle Ad Valorem Tax Law of 1958." In addition to these required schedules, the * * * Department of Revenue may require each person, firm, company or corporation to file with the * * *

Department of Revenue a copy of any annual report or form required to be filed by him with any federal regulatory agency. The * * * Department of Revenue may grant an extension of up to * * * twenty (20) days for the filing of the schedules required by this section.

(2) The * * * Department of Revenue shall have the power to adopt, amend or repeal such rules and regulations as necessary to implement tax duties assigned to it in this section.

SECTION 3. Section 27-35-305, Mississippi Code of 1972, is amended as follows:

27-35-305. If any company, corporation, firm or person, who is required by law to render schedules of its, their or his property to the * * * Department of Revenue, as provided by Section 27-35-303, Mississippi Code of 1972, for the purposes of assessment for taxation, shall fail, refuse or neglect to render the schedules, as required, the Department of Revenue may impose on such company, corporation, firm or person * * * a penalty * * * of ten percent (10%) of the assessment as computed by the * * * department, and in case of such failure, refusal or neglect, the * * * department shall make out such schedules from the best information obtainable.

SECTION 4. Section 27-35-309, Mississippi Code of 1972, is amended as follows:

27-35-309. (1) The Department of Revenue shall, if practicable, on or before the first Monday of June of each year,

make out for each person, firm, company or corporation listed in Section 27-35-303, Mississippi Code of 1972, an assessment of the company's property, both real and personal, tangible and intangible. The Department of Revenue shall apportion the assessment of value of each company's property according to the provisions of this article, except as provided in subsection (3) of this section, as follows:

(a) When the property of such public service company is located in more than one (1) county in this state, the Department of Revenue shall direct the company to apportion the assessed value between the counties and municipalities and all other taxing districts therein, in the proportion which the property located therein bears to the entire value of the property of such company as valued by the department, so that to each county, municipality and taxing district therein, there shall be apportioned such part of the entire valuation as will fairly equalize the relative value of the property therein located to the whole value thereof.

(b) When the property of such public utility required to be assessed by the provisions of this article is located in more than one (1) state, the assessed value thereof shall be apportioned by the Department of Revenue in such manner as will fairly and equitably determine the principal sum for the value thereof in this state, and after ascertaining such value it shall be apportioned by them as herein provided.

The assessment roll shall contain all the property of any such public service company, railroad, person, firm or corporation and the value thereof, and so made that each county, municipality, and taxing district shall receive its just share of taxes proportionately to the amount of property therein situated.

(2) (a) The assessment when made shall remain open for * * * twenty (20) days in the Office of the Department of Revenue, and be for such time subject to the objections thereto which may be filed with the Executive Director of the Board of Tax Appeals; but real estate belonging to railroads and which forms no part of the road, and is wholly disconnected from its railroad business, shall not be assessed by the Department of Revenue, but shall be assessed as other real estate is assessed by the tax assessor of the county where situated.

(b) The apportionment of the assessed value as required by this section shall be filed with the Department of Revenue by such public service company on or before the * * * last day of the objection period established in paragraph (a) of this subsection (2). If such company shall fail, refuse or neglect to render the apportionment of assessed value as required by this section, such company shall be subject to the penalties provided for in Section 27-35-305. The filing of an objection by such public service company shall not preclude such company from filing the property apportionment as required by this section.

(3) Any nuclear generating plant which is located in the state, which is owned or operated by a public utility rendering electric service within the state and not exempt from ad valorem taxation under any other statute and which is not owned or operated by an instrumentality of the federal government shall be exempt from county, municipal and district ad valorem taxes. In lieu of the payment of county, municipal and district ad valorem taxes, such public utility shall pay to the Department of Revenue a sum based on the assessed value of such nuclear generating plant in an amount to be determined and distributed as follows:

(a) The Department of Revenue shall annually assign an assessed value to any nuclear generating plant described in this subsection in the same manner as for ad valorem tax purposes by using accepted industry methods for appraising and assessing public utility property. The assessed value assigned shall be used for the purpose of determining the in-lieu tax due under this section and shall not be included on the ad valorem tax rolls of the situs taxing authority nor be subject to ad valorem taxation by the situs taxing authority nor shall the assessed value assigned be used in determining the debt limit of the situs taxing authority. However, the assessed value so assigned may be used by the situs taxing authority for the purpose of determining salaries of its public officials.

(b) On or before February 1, 1987, for the 1986 taxable year and on or before February 1 of each year through the 1989

taxable year, such utility shall pay to the Department of Revenue a sum equal to two percent (2%) of the assessed value as ascertained by the Department of Revenue, but such payment shall not be less than Sixteen Million Dollars ($16,000,000.00) for any of the four (4) taxable years; all such payments in excess of Sixteen Million Dollars ($16,000,000.00) for these four (4) taxable years shall be paid into the General Fund of the state. On or before February 1, 1991, for the 1990 taxable year and on or before February 1 of each year thereafter, such utility shall pay to the Department of Revenue a sum equal to two percent (2%) of the assessed value as ascertained by the Department of Revenue, but such payment shall not be less than Twenty Million Dollars ($20,000,000.00) for any taxable year for as long as such nuclear power plant is licensed to operate and is not being permanently decommissioned; all such payments in excess of Sixteen Million Dollars ($16,000,000.00) for taxable years 1990 and thereafter shall be paid as follows:

(i) An amount of Three Million Forty Thousand Dollars ($3,040,000.00) annually, beginning with fiscal year 1991, shall be transferred by the Department of Revenue to Claiborne County. Such payments may be expended by the Board of Supervisors of Claiborne County for any purpose for which a county is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under

Sections 27-39-305 and 27-39-321. However, should the Board of Supervisors of Claiborne County withdraw its support of the Grand Gulf Nuclear Station off-site emergency plan or otherwise fail to satisfy its off-site emergency plan commitments as determined by the Mississippi Emergency Management Agency and the Federal Emergency Management Agency, Five Hundred Thousand Dollars ($500,000.00) annually of the funds designated for Claiborne County as described by this subsection (i) shall be deposited in the Grand Gulf Disaster Assistance Fund as provided in Section 33-15-51.

(ii) An amount of One Hundred Sixty Thousand Dollars ($160,000.00) annually, beginning with fiscal year 1991, shall be transferred by the Department of Revenue to the City of Port Gibson, Mississippi. Such payments may be expended by the Board of Aldermen of the City of Port Gibson for any purpose for which a municipality is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under Sections 27-39-305 and 27-39-321. However, should the Board of Aldermen of the City of Port Gibson withdraw its support of the Grand Gulf Nuclear Station off-site emergency plan or otherwise fail to satisfy its off-site emergency plan commitment, as determined by the Mississippi Emergency Management Agency and the Federal Emergency Management Agency, Fifty Thousand Dollars ($50,000.00) annually of the funds designated for the City

of Port Gibson as described by this subsection (ii) shall be deposited in the Grand Gulf Disaster Assistance Fund as provided in Section 33-15-51.

(iii) The remaining balance of the payments in excess of Sixteen Million Dollars ($16,000,000.00) annually, less amounts transferred under (i) and (ii) of this subsection, beginning with fiscal year 1991, shall be allocated in accordance with subsection (3)(f) of this section.

(c) Pursuant to certification by the Attorney General to the State Treasurer and the * * * Department of Revenue that the suit against the State of Mississippi pending on the effective date of House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the First Judicial District of Hinds County, Mississippi, styled Albert Butler et al v. the Mississippi State Tax Commission et al, has been voluntarily dismissed with prejudice as to all plaintiffs at the request of the complainants and that no attorney's fees or court costs have been assessed against the state and each of the parties, including Claiborne County and each municipality and school district located in the county, have signed and delivered to the Attorney General a full and complete release in favor of the State of Mississippi and its elected officials of all claims that have been asserted or may be asserted in the suit pending on the effective date of House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex Session, Ch. 12, eff

June 26, 1990], in the Chancery Court for the First Judicial District of Hinds County, Mississippi, styled Albert Butler et al v. the Mississippi State Tax Commission et al, and the deposit into the State General Fund of in-lieu payments and interest thereon due the state under subsection (3)(b) of this section but placed in escrow because of the lawsuit described above, the state shall promptly transfer to the Board of Supervisors of Claiborne County out of the State General Fund an amount of Two Million Dollars ($2,000,000.00) which shall be a one-time distribution to Claiborne County from the state. Such payment may be expended by the Board of Supervisors of Claiborne County for any purposes for which a county is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes for the 1991 fiscal year under Sections 27-39-321 and 27-39-305.

(d) After distribution of the one-time payment to Claiborne County as set forth in subsection (3)(c) of this section, the Department of Revenue upon certification that the pending lawsuit as described in subsection (3)(c) of this section has been voluntarily dismissed shall promptly deposit an amount of Five Hundred Thousand Dollars ($500,000.00) into the Grand Gulf Disaster Assistance Trust Fund as provided for in Section 33-15-51, which shall be a one-time payment, to be utilized in accordance with the provisions of such section.

(e) After distribution of the one-time payment to Claiborne County as set forth in subsection (3)(c) of this section and the payment to the Grand Gulf Disaster Assistance Trust Fund as set forth in subsection (3)(d) of this section, the Department of Revenue upon certification that the pending lawsuit as described in subsection (3)(c) of this section has been voluntarily dismissed shall promptly distribute ten percent (10%) of the remainder of the prior payments remaining in escrow to the General Fund of the state and the balance of the prior payments remaining in escrow shall be distributed to the counties and municipalities in this state wherein such public utility has rendered electric service in the proportion that the amount of electric energy consumed by the retail customers of such public utility in each county, excluding municipalities therein, and in each municipality, for the next preceding fiscal year bears to the total amount of electric energy consumed by all retail customers of such public utility in the State of Mississippi for the next preceding fiscal year. The payments distributed to the counties and municipalities under this paragraph (e) may be expended by such counties and municipalities for any lawful purpose and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under Sections 27-39-321 and 27-39-305.

(f) After distribution of the payments for fiscal year 1991 as set forth in Section 19-9-151 and distribution of the

payments as provided for in subsection (3)(b) of this section, the Department of Revenue shall distribute ten percent (10%) of the remainder of the payments to the General Fund of the state and the balance to the counties and municipalities in this state wherein such public utility renders electric service in the proportion that the amount of electric energy consumed by the retail customers of such public utility in each county, excluding municipalities therein, and in each municipality for the next preceding fiscal year bears to the total amount of electric energy consumed by all retail customers of such public utility in the State of Mississippi for the next preceding fiscal year.

(g) No county, including municipalities therein, shall receive in excess of twenty percent (20%) of the funds distributed under paragraph (f) of this subsection.

(h) The revenues received by counties and municipalities under paragraph (f) of this subsection shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under Sections 27-39-305 and 27-39-321.

SECTION 5. Section 27-35-311, Mississippi Code of 1972, is amended as follows:

27-35-311. (1) It shall be the duty of the Board of Tax Appeals to hear and determine objections to assessments made by the Department of Revenue for ad valorem tax purposes. They may,

if they think objections just, sustain the same and amend assessments, if necessary accordingly.

(2) Any objection shall be in writing and filed with the Executive Director of the Board of Tax Appeals within the * * * twenty-day period set out in Section 27-35-309(2)(a). At the time of filing the objection with the Executive Director of the Board of Tax Appeals, the taxpayer shall specify in detail the relief requested and present the basis of any arguments against the Department of Revenue's assessment. The taxpayer shall also file a copy of his written objection with the Department of Revenue.

SECTION 6. Section 27-35-313, Mississippi Code of 1972, is amended as follows:

27-35-313. So soon as the assessment rolls have remained subject to objection for * * * twenty (20) days, and when all objections, if any, are disposed of, the assessment rolls shall be approved by the Department of Revenue, and a certified copy of the assessment rolls shall be sent immediately to the clerks of the board of supervisors of the respective counties, who shall file and preserve it as a record.

SECTION 7. Section 27-35-325, Mississippi Code of 1972, is amended as follows:

27-35-325. The Department of Revenue is hereby authorized and empowered and it shall be its duty to assess any property required to be assessed by the Department of Revenue as the state assessor of railroads, which it discovers escaping taxation in

former years by reason of not being assessed; and to assess or cause to be assessed and taxed, any such property which it discovers escaping taxation by reason of not being assessed in or for the benefit of any road district, school district, or other taxing district or municipality, although the property may have been assessed and taxed for state and general county taxes; however, the right to so assess property shall expire at the end of seven (7) years from the date when the right so to do first accrued. When any property is discovered escaping assessment and taxation which, under the law, is required to be assessed by the Department of Revenue as state assessor of railroads, the Department of Revenue shall assess the same for such purpose and for the years it has escaped taxation, and shall give notice by United States mail, or otherwise, by the Commissioner of Revenue of the Department of Revenue to the owner of the property, or agent, of such owner, showing what property has escaped assessment and for what years, and all other proper information, and the owner shall have * * * twenty (20) days in which to file objections. The Department of Revenue shall deal with the assessment in all respects with the same powers as if made at the time regular assessment of such property is made, and shall have power to require such information as it may desire for the correct determination of all questions before it. When any objection is heard and determined, the Board of Tax Appeals shall by order approve or disapprove, or may modify the assessment, and make it

final. If no objection is made in regard to the assessment or if the assessment is approved or modified by the Board of Tax Appeals, the Department of Revenue shall certify it to the clerk of the board of supervisors of the county or counties where the property is located, and such assessment shall be dealt with by the clerk and tax collector as is required in cases of assessments when made at the regular time. In all cases where suit is necessary, it shall be the duty of the Attorney General to represent the Department of Revenue whenever requested to do so.

SECTION 8. Section 27-35-513, Mississippi Code of 1972, is amended as follows:

27-35-513. If any company shall fail, or refuse, to make and file any statements required by law or any other statement demanded by the * * * Department of Revenue on or before the time required by Section 27-35-509, Mississippi Code of 1972, such company * * * may be assessed a penalty of * * * ten percent (10%) on the tax as computed by the * * * Department of Revenue, and in case of such failure, neglect or refusal, the * * * department may make out an assessment against the company or companies, from the best information available.

SECTION 9. Section 27-35-703, Mississippi Code of 1972, is amended as follows:

27-35-703. (1) The department shall annually assess, adjust, equalize and apportion the valuation of all aircraft of each airline company of a type or model operated in this state by

such airline company by such type or model. Such aircraft shall be valued by the department in the same manner as other personal property in the state is valued.

(2) Each airline company shall file with the department, on or before the first * * * day of April of each year, a complete schedule of all aircraft of a type or model operated in this state by such company. Such schedule shall be made under oath on forms prescribed and furnished by the department. If any airline company shall fail, refuse or neglect to file the required schedules, such company may be penalized in the manner provided for in Section 27-35-305.

(3) The assessment when made and completed shall remain open for * * * twenty (20) days for inspection in the offices of the Department of Revenue and be subject to objections by the airline companies for the same time period. The Board of Tax Appeals shall hear all objections, and it may increase or decrease any assessment if such action appears to be necessary and proper.

(4) Any objection shall be in writing and filed with the Executive Director of the Board of Tax Appeals within the * * * twenty-day period set out in subsection (3) of this section for objections. At the time of filing the objection with the Executive Director of the Board of Tax Appeals, the taxpayer shall also file a copy of his written objection with the Department of Revenue.

SECTION 10. This act shall take effect and be in force from and after January 1, 2021.

Mississippi Legislature
2020 Regular Session

House Bill 866

Description: Fuel and lubricating oil taxes; remove bond limit and class distinctions for certain distributors, require electronic filing of returns.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/10	(H) Amended
4	03/10	(H) Passed As Amended {Vote}
5	03/12	(H) Transmitted To Senate
6	05/11	(S) Referred To Finance
7	06/04	(S) Title Suff Do Pass
8	06/10	(S) Passed {Vote}
9	06/11	(S) Returned For Enrolling
10	06/15	(H) Enrolled Bill Signed
11	06/16	(S) Enrolled Bill Signed
12	06/22	Approved by Governor

Amendments:

[H] Amendment No 1 ***Adopted*** Voice Vote

Code Section: A 027-0055-0007, A 027-0055-0507, A 027-0057-0007, A 027-0059-0007, A 027-0057-0005, A 027-0057-0009, A 027-0057-0011, A 027-0057-0017, A 027-0055-0013, A 027-0055-0523, A 027-0059-0013, A 027-0059-0311, A 027-0057-0013

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Finance

Principal Author: Lamar

Title: AN ACT TO AMEND SECTIONS 27-55-7, 27-55-507, 27-57-7 AND 27-59-7, MISSISSIPPI CODE OF 1972, TO ALLOW THE MAXIMUM BOND LIMIT FOR DISTRIBUTORS OF GASOLINE, SPECIAL FUEL, LUBRICATING OIL AND COMPRESSED GAS TO BE EXCEEDED IN CERTAIN CIRCUMSTANCES; TO

AMEND SECTIONS 27-57-5, 27-57-9, 27-57-11 AND 27-57-17, MISSISSIPPI CODE OF 1972, TO REMOVE ALL REFERENCES TO CLASS A AND CLASS B LUBRICATING OIL DISTRIBUTORS; TO AMEND SECTIONS 27-55-13, 27-55-523, 27-59-13 AND 27-59-311, MISSISSIPPI CODE OF 1972, TO REMOVE REFERENCES TO FILING PAPER RETURNS AND TO ADD REQUIREMENTS FOR ELECTRONIC FILING; TO AMEND SECTION 27-57-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE ABOVE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Lamar To: Ways and Means

HOUSE BILL NO. 866
(As Passed the House)

AN ACT TO AMEND SECTIONS 27-55-7, 27-55-507, 27-57-7 AND 27-59-7, MISSISSIPPI CODE OF 1972, TO ALLOW THE MAXIMUM BOND LIMIT FOR DISTRIBUTORS OF GASOLINE, SPECIAL FUEL, LUBRICATING OIL AND COMPRESSED GAS TO BE EXCEEDED IN CERTAIN CIRCUMSTANCES; TO AMEND SECTIONS 27-57-5, 27-57-9, 27-57-11 AND 27-57-17, MISSISSIPPI CODE OF 1972, TO REMOVE ALL REFERENCES TO CLASS A AND CLASS B LUBRICATING OIL DISTRIBUTORS; TO AMEND SECTIONS 27-55-13, 27-55-523, 27-59-13 AND 27-59-311, MISSISSIPPI CODE OF 1972, TO REMOVE REFERENCES TO FILING PAPER RETURNS AND TO ADD REQUIREMENTS FOR ELECTRONIC FILING; TO AMEND SECTION 27-57-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE ABOVE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-55-7, Mississippi Code of 1972, is amended as follows:

27-55-7. Before any person shall engage in business as a distributor of gasoline in this state, he shall first make application to the * * * department, upon forms prescribed by the * * * department, for a permit to engage in said business.

If said application is approved by the * * * department, the applicant shall enter into a good and sufficient surety bond, written by a company qualified to write such bonds in this state. The bond shall be made payable to the State of Mississippi in a

sum of not less than One Thousand Dollars ($1,000.00) *nor more than Two Hundred Fifty Thousand Dollars ($250,000.00)*, the amount to be determined by the * * * department; or, in lieu thereof, the applicant may deposit with the * * * department a cash bond in the amount so determined. A personal bond in the amount so determined shall also be acceptable in lieu of a surety bond if the same is adequately secured by the pledge or assignment of a pledgeable or assignable bond or bonds of the State of Mississippi or the United States government. Such bond or bonds shall be in an amount not to exceed *Two Hundred Fifty Thousand Dollars ($250,000.00), and not to exceed* the gasoline tax estimated to become due by the said distributor of gasoline for any ninety-day period. If the distributor of gasoline is greater than one (1) month delinquent, and the gasoline tax estimate for any ninety-day period exceeds Two Hundred Fifty Thousand Dollars ($250,000.00), then the bond amount shall be increased in excess of Two Hundred Fifty Thousand Dollars ($250,000.00) to equal the gasoline tax estimate for any ninety-day period. If the distributor of gasoline is greater than three (3) months delinquent, and the gasoline tax estimate for any one-hundred-eighty-day period exceeds Two Hundred Fifty Thousand Dollars ($250,000.00), then the bond amount shall be increased in excess of Two Hundred Fifty Thousand Dollars ($250,000.00) to equal the gasoline tax estimated for any one-hundred-eighty-day period. The bond herein required shall be increased within the limits hereinabove set forth from time to time if deemed

insufficient by the * * * department, giving to the distributor of gasoline fifteen (15) days' notice, in writing, to increase said bond, said notice to state the amount of increase demanded.

The condition of said bond shall be that the distributor of gasoline shall fully comply with all laws pertaining to distributors of gasoline and pertaining to the transportation of gasoline as regulated by this article, and that he shall pay the gasoline tax and the penalties provided. Provided, however, any person who, prior to January 1, 1970, has furnished bond to meet the requirements of any petroleum tax law administered by the * * * department, shall not be required to furnish an additional bond provided his existing bond is adequate, but such person shall be subject to all the other provisions of this article regulating and governing distributors of gasoline.

Provided further, that any person who purchases all of his gasoline on a tax-paid basis and from a qualified bonded distributor of gasoline for sale or distribution to retailers for resale to consumers shall not be required to make bond for said gasoline purchased, but shall be subject to all the other provisions of this article regulating and governing distributors of gasoline.

SECTION 2. Section 27-55-507, Mississippi Code of 1972, is amended as follows:

27-55-507. Before any person shall engage in business as a distributor of special fuel in this state, he shall first make

application to the * * * department, upon forms prescribed by the * * * department, for a permit to engage in said business.

If the application is approved by the * * * department, the applicant shall enter into a good and sufficient surety bond, written by a company qualified to write such bonds in this state. The bond shall be made payable to the State of Mississippi in a sum not less than One Thousand Dollars ($1,000.00) *nor more than Two Hundred Fifty Thousand Dollars ($250,000.00)*, the amount to be determined by the * * * department; or, in lieu thereof, the applicant may deposit with the * * * department a cash bond in the amount so determined. A personal bond in the amount so determined shall also be acceptable in lieu of a surety bond if the same is adequately secured by the pledge or assignment of a pledgeable or assignable bond, or bonds, of the State of Mississippi or the United States government. Such bond or bonds shall be in an amount not to exceed *Two Hundred Fifty Thousand Dollars ($250,000.00), and not to exceed* the special fuel taxes estimated to become due by the distributor of special fuel for any ninety-day period. If the distributor of special fuel is greater than one (1) month delinquent, and the special fuel tax estimate for any ninety-day period exceeds Two Hundred Fifty Thousand Dollars ($250,000.00), then the bond amount shall be increased in excess of Two Hundred Fifty Thousand Dollars ($250,000.00) to equal the special fuel tax estimate for any ninety-day period. If the distributor of special fuel is greater than three (3) months

delinquent, and the special fuel tax estimate for any one-hundred-eighty-day period exceeds Two Hundred Fifty Thousand Dollars ($250,000.00), then the bond amount shall be increased in excess of Two Hundred Fifty Thousand Dollars ($250,000.00) to equal the special fuel tax estimated for any one-hundred-eighty-day period. The bond required by this section shall be increased within the limits hereinabove set forth from time to time if deemed insufficient by the * * * department, giving to the distributor of special fuel fifteen (15) days' notice, in writing, to increase such bond, such notice to state the amount of increase demanded.

The condition of such bond shall be that the distributor of special fuel shall fully comply with all laws pertaining to distributors of special fuel and pertaining to the transportation of special fuel as regulated by this article, and that he shall pay the special fuel taxes, and the penalties provided.

SECTION 3. Section 27-57-7, Mississippi Code of 1972, is amended as follows:

27-57-7. Before any person shall engage in business as a Class A distributor of lubricating oil, as defined in this article, in this state he shall first make application to the * * * department, upon forms prescribed by the * * * department, for a permit to engage in said business.

If said application is approved, the * * * department may require said applicant to enter into a good and sufficient surety

bond, written by a company qualified to write such bonds in the State of Mississippi, which bond shall be made payable to the State of Mississippi in a sum not less than One Thousand Dollars ($1,000.00) *nor more than Two Hundred Fifty Thousand Dollars ($250,000.00)*; or in lieu thereof, deposit with the * * * department a cash bond in the aforesaid amount. A personal bond in the aforesaid amount shall also be acceptable if the same is secured by bonds of the State of Mississippi or the United States government. Such bond or bonds shall be in an amount not to exceed *Two Hundred Fifty Thousand Dollars ($250,000.00), and not to exceed* the lubricating oil tax estimated to become due by the said distributor for any ninety-day period. If the distributor of lubricating oil is greater than one (1) month delinquent, and the lubricating oil tax estimate for any ninety-day period exceeds Two Hundred Fifty Thousand Dollars ($250,000.00), then the bond amount shall be increased in excess of Two Hundred Fifty Thousand Dollars ($250,000.00) to equal the lubricating oil tax estimate for any ninety-day period. If the distributor of lubricating oil is greater than three (3) months delinquent, and the lubricating oil tax estimate for any one-hundred-eighty-day period exceeds Two Hundred Fifty Thousand Dollars ($250,000.00), then the bond amount shall be increased in excess of Two Hundred Fifty Thousand Dollars ($250,000.00) to equal the lubricating oil tax estimated for any one-hundred-eighty-day period. The bond herein required shall be increased within the limits hereinbefore set forth from time to

time if deemed insufficient by the * * * department giving to the licensee fifteen (15) days' notice, in writing, to increase said bond, said notice to state the amount of increase demanded.

The bond required by this section shall be conditioned that the distributor will fully comply with all laws pertaining to distributors of lubricating oil and pay all excise taxes and penalties provided. Provided that bonds given by distributors under the laws heretofore in force shall remain in full force and effect. Provided, however, any person who has already furnished bond under a prior petroleum tax law or shall furnish a bond to meet the requirements of any petroleum tax law administered by the * * * department shall not be required to furnish an additional bond, but said person shall be subject to all other conditions, requirements and liabilities imposed herein upon a distributor of lubricating oil.

SECTION 4. Section 27-59-7, Mississippi Code of 1972, is amended as follows:

27-59-7. Before any person shall engage in business as a distributor of compressed gas, he shall first make application to the * * * department, upon forms prescribed by the * * * department, for a permit to engage in said business.

If said application is approved, the * * * department may require said applicant to enter into a good and sufficient surety bond, written by a company qualified to write such bonds in the State of Mississippi, which bond shall be made payable to the

State of Mississippi, in a sum not less than One Thousand Dollars ($1,000.00) *nor more than Twenty-five Thousand Dollars ($25,000.00)*; or in lieu thereof, deposit with the * * * department a cash bond in the aforesaid amount. A personal bond in the aforesaid amounts shall also be acceptable if the same is secured by the bonds of the State of Mississippi or the United States government. Such bond or bonds shall be in an amount not to exceed *Twenty-five Thousand Dollars ($25,000.00), and not to exceed* the compressed gas taxes estimated to become due by the said distributor for any ninety-day period. If the distributor of compressed gas is greater than one (1) month delinquent, and the compressed gas tax estimate for any ninety-day period exceeds Twenty-five Thousand Dollars ($25,000.00), then the bond amount shall be increased in excess of Twenty-five Thousand Dollars ($25,000.00) to equal the compressed gas tax estimate for any ninety-day period. If the distributor of compressed gas is greater than three (3) months delinquent, and the compressed gas tax estimate for any one-hundred-eighty-day period exceeds Twenty-five Thousand Dollars ($25,000.00), then the bond amount shall be increased in excess of Twenty-five Thousand Dollars ($25,000.00) to equal the compressed gas tax estimated for any one-hundred-eighty-day period. The bond herein required shall be increased within the limits hereinbefore set forth from time to time if deemed insufficient by the * * * department, giving to the

distributor fifteen (15) days' notice, in writing, to increase said bond, said notice to state the amount of increase demanded.

Said bond shall be conditioned that the distributor will fully comply with all laws pertaining to distributors of compressed gas as regulated by this chapter and to pay the compressed gas taxes and penalties provided. Provided, however, that any person who has already furnished bond under a prior petroleum tax law or shall furnish a bond to meet the requirements of any petroleum tax law administered by the * * * department shall not be required to furnish an additional bond, but said person shall be subject to all other conditions, requirements and liabilities imposed herein upon a distributor of compressed gas.

Before any public utility sells or delivers natural gas for use as a fuel in a motor vehicle to a user, as defined herein, the public utility shall notify, in writing, the * * * department of its intention to engage in such activity.

A public utility who sells or delivers natural gas to a user, as defined herein, shall be subject to the same requirements and penalties as distributors of compressed gas except that the public utility shall not be required to comply with Section 75-57-49.

SECTION 5. Section 27-57-5, Mississippi Code of 1972, is amended as follows:

27-57-5. The words, terms and phrases as used in this article shall have the following meanings unless the context requires otherwise:

(a) "Lubricating oil" means all petroleum-based oils or synthetic lubricants intended for use in the crankcase of an internal combustion engine, either spark ignition or diesel type. The purpose of "lubricating oil" is to reduce friction between two (2) solid surfaces moving relative to one another. Lubricating oil shall not mean spindle oils, cutting oils, steam cylinder oils, transmission fluids or oils, gear oils, industrial oils, electrical insulating oils, manufactured, recommended, advertised and intended for such; lubricating oil specifically designed for use in large stationary engines of five hundred (500) horsepower or more; oils specifically designed for use in aircraft or outboard motors, or lubricating oil additives and compounds, manufactured, recommended, advertised and intended for use as an additive or compound and packaged in quantities of one (1) gallon or less; oils which would cause damage to an internal combustion engine if used as a lubricant, or special purpose oils where the finished cost would make its use as a lubricating oil in an internal combustion engine economically prohibitive, or oils used as raw materials in manufacturing processes and any grease which is classified as a lubricant and which is manufactured, recommended, advertised and intended for use as such.

(b) "Person" means any individual, firm, copartnership, joint venture, association, corporation, estate, trust, or any other group or combination acting as a unit, and the plural as

well as the singular number unless the intention to give a more limited meaning is disclosed by the context.

(c) " * * * Distributor" means any person who acquires lubricating oil on which the tax levied by this article has not been paid and sells or delivers lubricating oil to wholesalers, retailers or directly to consumers.

(d) "Commission" or "department" means the Department of Revenue.

(e) "Refiner" or "processor" shall mean every person who shall receive, produce, manufacture, refine, distill, blend or compound lubricating oil in this state, when such person shall engage in refining or processing petroleum products in this state, and the blending or mixing process produces a finished product with different physical and chemical properties from the original products.

(f) "Waters" shall mean public waters.

(g) "Retailer" means every person who sells lubricating oil at retail.

SECTION 6. Section 27-57-9, Mississippi Code of 1972, is amended as follows:

27-57-9. If the * * * department approves the application and bond, it shall issue a permit authorizing said applicant to engage in business as * * * a * * * distributor and said permit shall not be assignable or otherwise transferable. Said permits may be revoked for a single business location or all such

locations by the * * * department at any time upon ten (10) days' written notice, if said distributor shall fail to pay all excise taxes and penalties due within the time provided by law where so required, or shall fail in any way to comply with all the provisions of this article, but such cancellation shall not relieve the distributor or his sureties from liability on the distributor's bond. No permit shall be issued any applicant who is in arrears or default to the state or any subdivision thereof for any taxes on any petroleum products. Copies of all permits shall be filed and recorded alphabetically by the comptroller.

Any person engaging in the business of a distributor without a permit having first been obtained as provided herein, or after any permit granted a distributor has been revoked, shall forfeit all right to do business as a distributor of lubricating oil in the State of Mississippi for a period of not less than one (1) year, nor more than five (5) years. It shall be the duty of the * * * department, when it shall have knowledge that any person is engaging in business as a distributor without a valid permit to proceed by injunction or otherwise, to prevent the continuance of said business as a distributor of lubricating oil, and any judge or chancellor now authorized to grant injunctions, shall grant an injunction enjoining the continuance of said business for not less than one (1) year nor more than five (5) years.

SECTION 7. Section 27-57-11, Mississippi Code of 1972, is amended as follows:

27-57-11. Any person who is engaged in business as a Class A distributor or who acts as a * * * distributor as defined in this article, shall pay for the privilege of engaging in such business or acting as such * * * distributor, an excise tax of Two Cents (2¢) per quart (Eight Cents (8¢) per gallon) upon lubricating oil (1) sold to * * * distributors; (2) sold to retailers; (3) sold directly to a consumer; (4) used in any motor vehicle owned or operated by such person in this state. Provided that the tax herein imposed and assessed shall be collected and paid to the State of Mississippi but once in respect to any lubricating oil.

* * *

SECTION 8. Section 27-57-17, Mississippi Code of 1972, is amended as follows:

27-57-17. (1) There shall not be included in the measure of the tax levied hereunder any lubricating oils:

(a) Sold or delivered by a * * * distributor to another * * * distributor within this state.

(b) Sold by a * * * distributor to the United States government for use of the armed forces only and delivered in quantities of not less than fifty (50) gallons.

(c) Exported to a destination beyond the borders of this state by any person, by ship, vessel, barge, railroad tank car, pipeline, or tank truck, if such tank truck is operated by a common or contract carrier.

(d) Exported to destination beyond the borders of this state by a * * * distributor.

(e) Sold in quantities of fifty (50) gallons, or more, to be used by any railroad locomotive, boat, vessel, ship, towboat, or dredgeboat.

(f) Brought into this state in the reservoir provided by the manufacturer of a vehicle as the container of oils used exclusively for lubricating said vehicle.

(2) Evidence of exempt transactions provided in this section and the subsections thereof shall consist of copies of invoices, documents or any other evidence that may be required by the * * * department. In order to claim exemptions provided under this article, the distributor of lubricating oil must file claims therefor within three (3) years from the date of sale or delivery; otherwise, claims for such exemptions shall be disallowed.

SECTION 9. Section 27-55-13, Mississippi Code of 1972, is amended as follows:

27-55-13. For the purpose of determining the amount of his liability for the tax imposed by this article, each bonded distributor of gasoline shall, not later than the twentieth day of the month next following the month in which this article becomes effective, and not later than the twentieth day of each month thereafter, file with the * * * department a monthly report which shall include a statement of the number of gallons of gasoline or blend stock received by such distributor within this state during

the preceding calendar month, and such other information as may be reasonably necessary for the proper administration of this article.

At the time of filing each monthly report with the * * * department, a distributor may take a credit for the number of gallons of gasoline that he purchased during the preceding calendar month from a distributor who pays the excise tax imposed by this article on such gasoline.

At the time of filing each monthly report with the * * * department, each distributor of gasoline shall pay to the * * * department the full amount of the gasoline tax due from such distributor for the preceding calendar month, less two percent (2%) to cover evaporation, shrinkage and other normal losses.

Reports and payments * * * must be * * * filed electronically by the due date in order to be considered timely filed, except when the due date falls on a weekend or holiday, in which case such reports and payments must be * * * filed electronically by the first working day following the due date in order to be considered timely filed.

The monthly report of the distributor of gasoline shall be prepared and filed with the * * * department on forms prescribed by the * * * department, or the distributor of gasoline may, with the approval of the * * * department, furnish the required information on machine-prepared schedules. Such monthly reports or schedules shall be signed by the distributor or his duly

authorized agent and shall contain a declaration that the statements contained therein are true and correct and are made under the penalty of perjury.

SECTION 10. Section 27-55-523, Mississippi Code of 1972, is amended as follows:

27-55-523. For the purpose of determining the amount of his liability for the tax imposed by this article, each bonded distributor of special fuel shall, not later than the twentieth day of the month next following the month in which this article becomes effective, and not later than the twentieth day of each month thereafter, file with the * * * department a monthly report which shall include a statement of the number of gallons of special fuel received and sold by such distributor of special fuel within this state during the preceding calendar month, and such other information as may be reasonably necessary for the proper administration of this article.

At the time of filing each monthly report with the * * * department, a distributor may take a credit for the number of gallons of special fuel that he purchased during the preceding calendar month from a distributor who pays the excise tax imposed by this article on such special fuel.

At the time of filing each monthly report with the * * * department, each distributor of special fuel shall pay to the * * * department the full amount of the special fuel tax due from such distributor for the preceding calendar month.

Reports and payments * * * must be * * * filed electronically by the due date in order to be considered timely filed, except when the due date falls on a weekend or holiday, in which case such reports and payments must be * * * filed electronically by the first working day following the due date in order to be considered timely filed.

The monthly report of the distributor of special fuel shall be prepared and filed with the * * * department on forms prescribed by the * * * department, or the distributor of special fuel may, with the approval of the * * * department, furnish the required information on machine-prepared schedules. Such monthly reports or schedules shall be signed by the distributor or his duly authorized agent and shall contain a declaration that the statements contained in such report are true and correct and are made under the penalty of perjury.

When special fuel, which would otherwise be taxable under the provisions of this article, is imported, sold, delivered or exported, under conditions which will exclude such special fuel from the tax levied under this article by reasons of one or more of the exemptions provided in this article, deduction for such exempt special fuel may be taken without prior approval of the * * * department on the monthly report of the bonded distributor of special fuel importing, selling, delivering or exporting such special fuel. Provided, however, that the * * *

department may require proof to be furnished of such deduction for exempt special fuel.

When the Five and Three-fourths Cents (5.75¢) per gallon tax has accrued or has been paid on special fuel that is taxed at Eighteen Cents (18¢) per gallon, a deduction of Five and Three-fourths Cents (5.75¢) per gallon may be made.

SECTION 11. Section 27-59-13, Mississippi Code of 1972, is amended as follows:

27-59-13. The excise taxes levied in this chapter shall become due and payable on or before the twentieth day of the month succeeding the month in which the tax accrues. Each distributor shall file with the * * * department a monthly report setting forth the quantity of compressed gas received within this state, less any authorized exemptions; the quantity of compressed gas sold for use on the highways of this state; and any other information as may be reasonably necessary for the administration of this chapter. The distributor shall remit to the * * * department with the monthly report, the full amount of the excise tax shown thereon to be due.

Reports and payments * * * must be * * * filed electronically by the due date in order to be considered timely filed, except when the due date falls on a weekend or holiday, in which case such reports and payments must be * * * filed electronically by the first working day following the due date in order to be considered timely filed.

An amount equal to One-fourth Cent (1/4¢) per gallon on all compressed gas shown to be taxable for highway use may be deducted; provided, that the One-fourth Cent (1/4¢) per gallon tax on such compressed gas has been paid or is covered by the bond of a distributor of compressed gas.

The monthly report of the distributor shall be prepared and filed with the * * * department on forms prescribed by the * * * department or the distributor may, with the approval of the * * * department, furnish the required information on machine-prepared schedules. Such monthly reports shall be signed by the distributor or his duly authorized agent and contain a declaration that the statements contained therein are true and are made under the penalty of perjury.

All persons storing compressed gases, excepting natural gas, in underground caverns or cavities in this state shall make monthly reports of withdrawals of such compressed gases from storage, on forms prescribed by the * * * department at the same time, in the same manner, and subject to the same terms, conditions and penalties as is otherwise provided for distributors of compressed gas. Sales and deliveries of compressed gases to nonpermitted distributors shall be listed and reported on such reports separately from sales and deliveries to permitted distributors.

SECTION 12. Section 27-59-311, Mississippi Code of 1972, is amended as follows:

27-59-311. The tax levied in this article shall become due and payable on or before the twentieth day of the month succeeding the month in which the tax accrues. Each person liable for the tax levied in this article shall file with the * * * department a monthly report setting forth the quantity of natural gas and/or locomotive fuel used in this state and any other information as may be deemed reasonably necessary for the administration of this article and shall remit the full amount of the taxes shown to be due.

Reports and payments * * * must be * * * electronically filed by the due date in order to be considered timely filed, except when the due date falls on a weekend or holiday, in which case such reports and payments must be * * * electronically filed by the first working day following the due date in order to be considered timely filed.

The monthly report shall be prepared and filed with the * * * department on forms prescribed by the * * * department or with the approval of the * * * department, on machine-prepared schedules. Such monthly reports shall be signed by the permittee or his duly authorized agent and contain a declaration that the statements contained therein are true and are made under the penalty of perjury.

SECTION 13. Section 27-57-13, Mississippi Code of 1972, is amended as follows:

27-57-13. (1) For the purpose of determining the amount of his liability for the tax imposed herein, each * * * distributor shall, not later than the twentieth day of the month next following the month in which this article becomes effective and not later than the twentieth day of each month thereafter, file with the * * * department a monthly report which shall include a statement of the number of gallons of lubricating oil sold by such * * * distributor within this state during the preceding calendar month and such other information as may be necessary for the proper administration of this article.

(2) At the time of filing each monthly report with the * * * department, each * * * distributor shall pay to the * * * department the full amount of the lubricating oil tax due from such * * * distributor for the preceding calendar month.

Reports and payments * * * must be * * * filed electronically by the due date in order to be considered timely filed, except when the due date falls on a weekend or holiday, in which case such reports and payments must be * * * filed electronically by the first working day following the due date in order to be considered timely filed.

The monthly report of the * * * distributor shall be prepared and filed with the * * * department on forms prescribed by the * * * department, or such Class A distributor may, with the approval of the * * * department, furnish the required information on machine-prepared schedules setting out such information as is

prescribed on the forms furnished by the * * * department. Such monthly reports shall be signed by the * * * distributor in person or by his duly authorized agent and shall contain a declaration that the statements contained therein are true and are made under penalty of perjury.

SECTION 14. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 869

Description: Motor vehicle title; change vehicle age from 10 to 20 years for odometer disclosure exemption.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: January 1, 2021

History of Actions:

1	02/14	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/10	(H) Passed {Vote}
4	03/11	(H) Transmitted To Senate
5	05/11	(S) Referred To Finance
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 063-0021-0015

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Finance

Principal Author: Lamar

Title: AN ACT TO AMEND SECTION 63-21-15, MISSISSIPPI CODE OF 1972, TO CHANGE, IN CONFORMITY WITH FEDERAL MANDATE, THE VEHICLE AGE FROM TEN TO TWENTY YEARS FOR PURPOSES OF ELIGIBILITY FOR THE EXEMPTION FROM THE ODOMETER DISCLOSURE REQUIREMENT WHEN APPLYING FOR A CERTIFICATE OF TITLE TO A MOTOR VEHICLE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Lamar To: Ways and Means

HOUSE BILL NO. 869

AN ACT TO AMEND SECTION 63-21-15, MISSISSIPPI CODE OF 1972, TO CHANGE, IN CONFORMITY WITH FEDERAL MANDATE, THE VEHICLE AGE FROM TEN TO TWENTY YEARS FOR PURPOSES OF ELIGIBILITY FOR THE EXEMPTION FROM THE ODOMETER DISCLOSURE REQUIREMENT WHEN APPLYING FOR A CERTIFICATE OF TITLE TO A MOTOR VEHICLE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-21-15, Mississippi Code of 1972, is amended as follows:

63-21-15. (1) The application for the certificate of title of a vehicle, manufactured home or mobile home in this state shall be made by the owner to a designated agent, on the form the Department of Revenue prescribes, and shall contain or be accompanied by the following, if applicable:

(a) The name, driver's license number, if the owner has been issued a driver's license, current residence and mailing address of the owner;

(b) (i) If a vehicle, a description of the vehicle, including the following data: year, make, model, vehicle identification number, type of body, the number of cylinders,

odometer reading at the time of application, and whether new or used; and

(ii) If a manufactured home or mobile home, a description of the manufactured home or mobile home, including the following data: year, make, model number, serial number and whether new or used;

(c) The date of purchase by applicant, the name and address of the person from whom the vehicle, manufactured home or mobile home was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(d) In connection with the transfer of ownership of a manufactured home or mobile home sold by a sheriff's bill of sale, a copy of the sheriff.'s bill of sale;

(e) (i) An odometer disclosure statement made by the transferor of a motor vehicle. The statement shall read:

"Federal and state law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fine and/or imprisonment.

I state that the odometer now reads _____ (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described herein, unless one (1) of the following statements is checked:

_____ (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

_____ (2) I hereby certify that the odometer reading is not the actual mileage. WARNING-ODOMETER DISCREPANCY!"

(ii) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title, which form shall be prescribed and furnished by the Department of Revenue. This written disclosure must be signed by the transferor and transferee, including the printed name of both parties.

Notwithstanding the requirements above, the following exemptions as to odometer disclosure shall be in effect:

1. A vehicle having a gross vehicle weight rating of more than sixteen thousand (16,000) pounds.

2. A vehicle that is not self-propelled.

3. A vehicle that is * * * twenty (20) years old or older.

4. A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

5. A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(iii) Any person who knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of up to One Thousand Dollars ($1,000.00) or imprisonment of up to one (1) year, or both, at the discretion of the court. These penalties shall be cumulative, supplemental and in addition to the penalties provided by any other law; and

(f) For previously used manufactured homes and mobile homes that previously have not been titled in this state or any other state, a disclosure statement shall be made by the owner of the manufactured home or mobile home applying for the certificate of title. That statement shall read:

"I state that the previously used manufactured home or mobile home owned by me for which I am applying for a certificate of title, to the best of my knowledge:

_____ (1) Has never been declared a total loss due to flood damage, fire damage, wind damage or other damage; or

_____ (2) Has previously been declared a total loss due to:

_____ (a) Collision;

_____ (b) Flood;

_____ (c) Fire;

_____ (d) Wind;

_____ (e) Other (please describe): _____

_____."

(2) The application shall be accompanied by such evidence as the Department of Revenue reasonably requires to identify the vehicle, manufactured home or mobile home and to enable the Department of Revenue to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the vehicle, manufactured home or mobile home and whether the applicant is liable for a use tax as provided by Sections 27-67-1 through 27-67-33.

(3) If the application is for a vehicle, manufactured home or mobile home purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and it shall be signed by the dealer as well as the owner. The designated agent shall promptly mail or deliver the application to the Department of Revenue.

(4) If the application is for a new vehicle, manufactured home or mobile home, it shall contain the certified manufacturer's statement of origin showing proper assignments to the applicant and a copy of each security interest document.

(5) Each application shall contain or be accompanied by the certificate of a designated agent that the vehicle, manufactured home or mobile home has been physically inspected by him and that the vehicle identification number and descriptive data shown on the application, pursuant to the requirements of subsection (1)(b)

of this section, are correct, and also that he has identified the person signing the application and witnessed the signature. If the application is to receive a branded title for a vehicle for which a salvage certificate of title has been issued, the application shall be accompanied by a sworn affidavit that the vehicle complies with the requirements of this section, Section 63-21-39 and the regulations promulgated by the Department of Revenue under Section 63-21-39.

(6) If the application is for a first certificate of title on a vehicle, manufactured home or mobile home other than a new vehicle, manufactured home or mobile home, then the application shall conform with the requirements of this section except that in lieu of the manufacturer's statement of origin, the application shall be accompanied by a copy of the bill of sale of said motor vehicle, manufactured home or mobile home whereby the applicant claims title or in lieu thereof, in the case of a motor vehicle, certified copies of the last two (2) years' tag and tax receipts or in lieu thereof, in any case, such other information the Department of Revenue may reasonably require to identify the vehicle, manufactured home or mobile home and to enable the Department of Revenue to determine ownership of the vehicle, manufactured home or mobile home and the existence or nonexistence of security interest in it. If the application is for a vehicle, manufactured home or mobile home last previously registered in another state or country, the application shall also be

accompanied by the certificate of title issued by the other state or country, if any, properly assigned.

(7) Every designated agent within this state shall, no later than the next business day after they are received by him, forward to the Department of Revenue by mail, postage prepaid, the originals of all applications received by him, together with such evidence of title as may have been delivered to him by the applicants.

(8) An application for certificate of title and information to be placed on an application for certificate of title may be transferred electronically as provided in Section 63-21-16.

(9) The Department of Revenue shall issue a certificate of title or any other document applied for under this chapter to the designated agent, owner or lienholder of the motor vehicle or of the manufactured home or mobile home, as appropriate, not more than thirty (30) days after the application and required fee prescribed under Section 63-21-63 or Section 63-21-64 are received unless the applicant requests expedited processing under subsection (10) of this section.

(10) (a) The Department of Revenue shall establish an expedited processing procedure for the receipt of applications and the issuance of certificates of title and any other documents issued under this chapter, except a replacement certificate of title as provided under Section 63-21-27(2), for motor vehicles and for manufactured homes or mobile homes. Any designated agent,

lienholder or owner requesting the issuance of any such document, at his or her option, shall receive such expedited processing upon payment of a fee in the amount of Thirty Dollars ($30.00). Such fee shall be in addition to the fees applicable to the issuance of any such documents under Section 63-21-63 and Section 63-21-64.

(b) When expedited title processing is requested, the applicable fees are paid and all documents and information necessary for the Department of Revenue to issue the certificate of title or other documents applied for are received by the department, then the department shall complete processing of the application and issue the title or document applied for within seventy-two (72) hours of the time of receipt, excluding weekends and holidays.

SECTION 2. This act shall take effect and be in force from and after January 1, 2021.

Mississippi Legislature
2020 Regular Session

House Bill 917

Description: Light spirit products; define as no more than 4% alcoholic content by weight, and regulate same as beer and light wine.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: Passage

History of Actions:

1	02/14	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/05	(H) Passed {Vote}
4	03/06	(H) Transmitted To Senate
5	05/11	(S) Referred To Tourism
6	05/28	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/10	(S) Immediate Release
9	06/10	(S) Returned For Enrolling
10	06/11	(H) Enrolled Bill Signed
11	06/12	(S) Enrolled Bill Signed
12	06/18	Approved by Governor

Code Section: A 067-0003-0001, A 067-0003-0003, A 067-0003-0005, A 067-0003-0007, A 067-0003-0009, A 067-0003-0011, A 067-0003-0013, A 067-0003-0015, A 067-0003-0017, A 067-0003-0019, A 067-0003-0022, A 067-0003-0025, A 067-0003-0027, A 067-0003-0028, A 067-0003-0029, A 067-0003-0041, A 067-0003-0045, A 067-0003-0046, A 067-0003-0048, A 067-0003-0048.1, A 067-0003-0049, A 067-0003-0051, A 067-0003-0052, A 067-0003-0053, A 067-0003-0054, A 067-0003-0055, A 067-0003-0057, A 067-0003-0059, A 067-0003-0061, A 067-0003-0063, A 067-0003-0065, A 067-0003-0067, A 067-0003-0069, A 067-0003-0070, A 067-0003-0073, A 067-0003-0074, A 067-0001-0005, A 067-0001-0018, A 067-0001-0051, A 067-0001-0072, A 067-0007-0003, A 067-0007-0005, A 067-0007-0007, A 067-0007-0009, A 067-0007-0011, A 067-0009-0001, A 027-0065-0241, A 027-0071-0301, A 027-0071-0303, A 027-0071-0307, A 027-0071-0311, A 027-0071-0315, A 027-0071-0317, A 027-0071-0325, A 027-0071-0327, A 027-0071-0333, A 027-0071-0335, A 027-0071-0345, A 027-0071-0349, A 027-0071-0509, A 045-0009-0101, A 097-0005-0049

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Tourism

Principal Author: Zuber

Title: AN ACT TO AMEND SECTION 67-3-1, MISSISSIPPI CODE OF 1972, TO LEGALIZE THE MANUFACTURE AND SALE OF LIGHT SPIRIT PRODUCTS, TO BE REGULATED IN THE SAME MANNER AS BEER AND LIGHT WINE; TO AMEND SECTION 67-3-3, MISSISSIPPI CODE OF 1972, TO DEFINE "LIGHT SPIRIT PRODUCT" AS A BEVERAGE OF AN ALCOHOLIC CONTENT OF NOT MORE THAN 4% BY WEIGHT AND CONTAINING ONE OR MORE DISTILLED SPIRITS; TO AMEND SECTIONS 67-3-5, 67-3-7, 67-3-9, 67-3-11, 67-3-13, 67-3-15, 67-3-17, 67-3-19, 67-3-22, 67-3-25, 67-3-27, 67-3-28, 67-3-29, 67-3-41, 67-3-45, 67-3-46, 67-3-48, 67-3-48.1, 67-3-49, 67-3-51, 67-3-52, 67-3-53, 67-3-54, 67-3-55, 67-3-57, 67-3-59, 67-3-61, 67-3-63, 67-3-65, 67-3-67, 67-3-69, 67-3-70, 67-3-73, 67-3-74, 67-1-5, 67-1-18, 67-1-51, 67-1-72, 67-7-3, 67-7-5, 67-7-7, 67-7-9, 67-7-11, 67-9-1, 27-65-241, 27-71-301, 27-71-303, 27-71-307, 27-71-311, 27-71-315, 27-71-317, 27-71-325, 27-71-327, 27-71-333, 27-71-335, 27-71-345, 27-71-349, 27-71-509, 45-9-101 AND 97-5-49, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Zuber To: Ways and Means

HOUSE BILL NO. 917

AN ACT TO AMEND SECTION 67-3-1, MISSISSIPPI CODE OF 1972, TO LEGALIZE THE MANUFACTURE AND SALE OF LIGHT SPIRIT PRODUCTS, TO BE REGULATED IN THE SAME MANNER AS BEER AND LIGHT WINE; TO AMEND SECTION 67-3-3, MISSISSIPPI CODE OF 1972, TO DEFINE "LIGHT SPIRIT PRODUCT" AS A BEVERAGE OF AN ALCOHOLIC CONTENT OF NOT MORE THAN 4% BY WEIGHT AND CONTAINING ONE OR MORE DISTILLED SPIRITS; TO AMEND SECTIONS 67-3-5, 67-3-7, 67-3-9, 67-3-11, 67-3-13, 67-3-15, 67-3-17, 67-3-19, 67-3-22, 67-3-25, 67-3-27, 67-3-28, 67-3-29, 67-3-41, 67-3-45, 67-3-46, 67-3-48, 67-3-48.1, 67-3-49, 67-3-51, 67-3-52, 67-3-53, 67-3-54, 67-3-55, 67-3-57, 67-3-59, 67-3-61, 67-3-63, 67-3-65, 67-3-67, 67-3-69, 67-3-70, 67-3-73, 67-3-74, 67-1-5, 67-1-18, 67-1-51, 67-1-72, 67-7-3, 67-7-5, 67-7-7, 67-7-9, 67-7-11, 67-9-1, 27-65-241, 27-71-301, 27-71-303, 27-71-307, 27-71-311, 27-71-315, 27-71-317, 27-71-325, 27-71-327, 27-71-333, 27-71-335, 27-71-345, 27-71-349, 27-71-509, 45-9-101 AND 97-5-49, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 67-3-1, Mississippi Code of 1972, is amended as follows:

67-3-1. The purpose of this chapter is to legalize the sale within this state of light wines, light spirit products and beer, to legalize the manufacture of beer, and to regulate the business of manufacturing and of selling light wines, light spirit products and beer so as to prevent the illicit manufacture, sale and

consumption of alcoholic beverages as defined in Section 67-1-5, the manufacture and sale of which it is not the purpose of this chapter to legalize.

SECTION 2. Section 67-3-3, Mississippi Code of 1972, is amended as follows:

67-3-3. When used in this chapter, unless the context indicates otherwise:

(a) "Commissioner" means the Commissioner of Revenue of the Department of Revenue of the State of Mississippi, and his authorized agents and employees.

(b) "Person" means one or more persons, a company, a corporation, a partnership, a syndicate or an association.

(c) "Brewpub" shall have the meaning ascribed to such term in Section 27-71-301.

(d) "Beer" means a malt beverage as defined in the Federal Alcohol Administration Act and any rules and regulations adopted pursuant to such act of an alcoholic content of not more than eight percent (8%) by weight.

(e) "Light wine" means wine of an alcoholic content of not more than five percent (5%) by weight.

(f) "Small craft brewery" means a person having a permit under this chapter to manufacture or brew light wine, light spirit product or beer in this state and who manufactures or brews not more than sixty thousand (60,000) barrels of light wine, light spirit product or beer at all breweries that such person or its

affiliates, subsidiary or parent company owns or controls or with whom such person contracts with for the manufacture of light wine, light spirit product or beer. For purposes of this paragraph, contract-brewed beer manufactured by a person having a permit under this chapter to manufacture or brew light wine, light spirit product or beer shall be included in the sixty-thousand-barrel limitation.

(g) "Growler" means a sealed container that holds not more than one hundred twenty-eight (128) ounces of light wine, light spirit product or beer. A growler must have a label on it stating what it contains.

(h) "Manufacturer" shall have the meaning ascribed to such term in Section 27-71-301.

(i) "Contract-brewed beer" means beer brewed by a manufacturer who:

(i) Makes the beer pursuant to a written contract with another beer manufacturer, and neither entity has a controlling interest in the other entity;

(ii) Makes the beer in accordance with a recipe that is a trade secret of the beer manufacturer having its beer made under contract; and

(iii) Has no right to sell the beer to any other beer manufacturer, importer or wholesaler other than the beer manufacturer who contracted for the beer.

(j) "Light spirit product" means a beverage of an alcoholic content of not more than four percent (4%) by weight and containing one or more distilled spirits, as defined in Section 67-1-5.

SECTION 3. Section 67-3-5, Mississippi Code of 1972, is amended as follows:

67-3-5. (1) It shall be lawful, subject to the provisions set forth in this chapter, in this state to transport, store, sell, distribute, possess, receive and/or manufacture wine, light spirit product and beer, and it is hereby declared that it is the legislative intent that this chapter privileges the lawful sale and manufacture, within this state, of such light wines, light spirit products and beer. In determining if a wine product is "light wine," or contains an alcoholic content of more than five percent (5%) by weight, or is not an "alcoholic beverage" as defined in the Local Option Alcoholic Beverage Control Law, Chapter 1 of Title 67, Mississippi Code of 1972, the alcoholic content of such wine product shall be subject to the same permitted tolerance as is allowed by the labeling requirements for light wine provided for in Section 27-71-509.

(2) Subject to the provisions set forth in this chapter, it shall be lawful in this state to transport, store, sell, distribute, possess, receive, and/or manufacture beer of an alcoholic content of more than eight percent (8%) by weight, if

the beer is manufactured to be sold legally in another state and is transported outside of this state for retail sale.

SECTION 4. Section 67-3-7, Mississippi Code of 1972, is amended as follows:

67-3-7. (1) If any county, at an election held for the purpose under the election laws of the state, shall by a majority vote of the duly qualified electors voting in the election determine that the transportation, storage, sale, distribution, receipt and/or manufacture of wine, light spirit product and beer shall not be permitted in such county, then the same shall not be permitted therein except as authorized under Section 67-9-1 and as may be otherwise authorized in this section. An election to determine whether such transportation, storage, sale, distribution, receipt and/or manufacture of such beverages shall be excluded from any county in the state, shall, on a petition of twenty percent (20%) of the duly qualified electors of such county, be ordered by the board of supervisors of the county, for such county only. No election on the question shall be held in any one (1) county more often than once in five (5) years.

In counties which have elected, or may elect by a majority vote of the duly qualified electors voting in the election, that the transportation, storage, sale, distribution, receipt and/or manufacture of wine, light spirit product or beer shall not be permitted in the county, an election may be held in the same manner as the election hereinabove provided on the question of

whether or not the transportation, storage, sale, distribution, receipt and/or manufacture of said beverages shall be permitted in such county. Such election shall be ordered by the board of supervisors of such county on a petition of twenty percent (20%) of the duly qualified electors of such county. No election on this question can be ordered more often than once in five (5) years.

(2) Nothing in this section shall make it unlawful to possess beer, light spirit product or wine, as defined herein, in any municipality which has heretofore or which may hereafter vote in an election, pursuant to Section 67-3-9, in which a majority of the qualified electors vote in favor of permitting the sale and the receipt, storage and transportation for the purpose of sale of beer, light spirit product or wine as defined herein.

(3) Nothing in this section shall make it unlawful to:

(a) Possess or consume light wine, light spirit product or beer at a qualified resort area as defined in Section 67-1-5;

(b) Sell, distribute and transport light wine, light spirit product or beer to a qualified resort area as defined in Section 67-1-5;

(c) Sell light wine, light spirit product or beer at a qualified resort area as defined in Section 67-1-5 if such light wine, light spirit product or beer is sold by a person with a permit to engage in the business as a retailer of light wine, light spirit product or beer;

(d) Transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state;

(e) Transport legally purchased light wine, light spirit product or beer in unopened containers if it is being transported on a state or federal highway; however, this paragraph shall not apply to a retailer unless the retailer has purchased the light wine, light spirit product or beer from a wholesaler or distributor for the designated sales territory in which the retailer is located and the retailer has in his possession an invoice from the wholesaler or distributor for the light wine, light spirit product or beer; or

(f) Transport homemade beer as authorized in Section 67-3-11.

SECTION 5. Section 67-3-9, Mississippi Code of 1972, is amended as follows:

67-3-9. Any city in this state, having a population of not less than two thousand five hundred (2,500) according to the latest federal census; or any city in this state having a population of not less than one thousand five hundred (1,500) according to the latest federal census and located within three (3) miles of a city or county that permits the sale, receipt, storage and transportation for the purpose of sale of beer, light spirit product or light wine; at an election held for the purpose, under the election laws applicable to such city, may either

prohibit or permit, except as otherwise provided under Section 67-9-1, the sale and the receipt, storage and transportation for the purpose of sale of beer, light spirit product and light wine. An election to determine whether such sale shall be permitted in cities wherein its sale is prohibited by law shall be ordered by the city council or mayor and board of aldermen or other governing body of such city for such city only, upon the presentation of a petition for such city to such governing board containing the names of twenty percent (20%) of the duly qualified voters of such city asking for such election. In like manner, an election to determine whether such sale shall be prohibited in cities wherein its sale is permitted by law shall be ordered by the city council or mayor and board of aldermen or other governing board of such city for such city only, upon the presentation of a petition to such governing board containing the names of twenty percent (20%) of the duly qualified voters of such city asking for such election. No election on either question shall be held by any one (1) city more often than once in five (5) years.

Thirty (30) days' notice shall be given to the qualified electors of such city in the manner prescribed by law upon the question of either permitting or prohibiting such sale, and the notice shall contain a statement of the question to be voted on at the election. The tickets to be used in the election shall have the following words printed thereon: "For the legal sale of light wine of an alcoholic content of not more than five percent (5%) by

weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight"; and the words "Against the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight," next below. In making up his ticket the voter shall make a cross (X) opposite the words of his choice.

If in the election a majority of the qualified electors voting in the election shall vote "For the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight," then the city council or mayor and board of aldermen or other governing body shall pass the necessary order permitting the legal sale of such light wine, light spirit product and beer in such city. If in the election a majority of the qualified electors voting in the election shall vote "Against the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight," then the city council or mayor and board of aldermen or other governing body shall pass the

necessary order prohibiting the sale of such light wine, light spirit product and beer in such city.

All laws or parts of laws in conflict with this section are hereby repealed to the extent of such conflict only, this section being cumulative and supplementary.

SECTION 6. Section 67-3-11, Mississippi Code of 1972, is amended as follows:

67-3-11. (1) Every person shall have the right to make homemade wine for domestic or household uses only, free of all restraint by this chapter or otherwise, and no such election as provided for in Sections 67-3-7, 67-3-9 and 67-3-13, shall deprive any person of the right to make homemade wine for domestic or household uses only.

(2) (a) Every person twenty-one (21) years of age or older shall have the right to make homemade beer for personal, family, domestic or household uses without restraint by this chapter or otherwise if the beer is made in a county or municipality in which the possession of light wine, light spirit product or beer is lawful.

(b) The maximum amount of homemade beer that a person may make in a calendar year shall not exceed:

(i) One hundred (100) gallons if there is only one (1) person over the age of twenty-one (21) years of age residing in the household; and

(ii) Two hundred (200) gallons if there are two (2) or more persons over the age of twenty-one (21) years residing in the household.

(c) A person who makes homemade beer as authorized in this section may remove the beer from the premises of the household where it is made and transport the beer only for the purpose of participating in a bona fide exhibition, contest or competition where homemade beer is being tasted and judged; however, homemade beer may not be sold or offered for sale under any circumstances.

SECTION 7. Section 67-3-13, Mississippi Code of 1972, is amended as follows:

67-3-13. (1) Except as otherwise provided herein and as authorized under this section and Section 67-9-1, in any county which has at any time since February 26, 1934, elected, or which may hereafter elect, to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than four percent (4%) by weight in such county, it is hereby declared to be unlawful to possess such beverages therein. In any county which, after July 1, 1998, elects to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than five percent (5%) by weight in such county, it is hereby declared to be unlawful to possess such beer therein. In any county which, after July 1, 2012, elects to

prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine of an alcoholic content of not more than five percent (5%) by weight in such county, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight, it is hereby declared to be unlawful to possess such wine, light spirit product or beer therein. Any person found possessing any beer, light spirit product or wine of any quantity whatsoever in such county shall, on conviction, be imprisoned not more than ninety (90) days or fined not more than Five Hundred Dollars ($500.00), or be both so fined and imprisoned.

(2) Notwithstanding the provisions of subsection (1) of this section, in any county or municipality in which the transportation, storage, sale, distribution, receipt and/or manufacture of light wine, light spirit product and beer is prohibited, it shall not be unlawful for a permitted wholesaler or distributor to possess light wine, light spirit product and beer when such light wine, light spirit product and beer is held therein solely for the purpose of storage and for distribution to other counties and municipalities in which possession of such beverages is lawful.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, in any county in which transportation, storage, sale, distribution, receipt and/or manufacture of light

wine, light spirit product and beer is prohibited, it shall not be unlawful:

(a) To receive, store, possess or consume light wine, light spirit product or beer at a resort area as defined in Section 67-1-5;

(b) To distribute and transport light wine, light spirit product or beer to a resort area as defined in Section 67-1-5;

(c) To transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state;

(d) To transport legally purchased light wine, light spirit product or beer in unopened containers if it is being transported on a state or federal highway; however, this paragraph shall not apply to a retailer unless the retailer has purchased the light wine, light spirit product or beer from a wholesaler or distributor for the designated sales territory in which the retailer is located and the retailer has in his possession an invoice from the wholesaler or distributor for the light wine, light spirit product or beer; or

(e) To transport homemade beer as authorized in Section 67-3-11.

(4) Any light wine, light spirit product or beer found in possession of, or sold by, a person in violation of this section

shall be seized and disposed of in the manner provided for in Section 67-1-18.

SECTION 8. Section 67-3-15, Mississippi Code of 1972, is amended as follows:

67-3-15. (1) Any person who shall brew or manufacture or sell any beer, light spirit product or light wine without first having secured a permit and/or license from the commissioner authorizing the brewing or manufacture or sale of such liquor, shall be guilty of a misdemeanor and, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment in the county jail for not more than one (1) year, or both, in the discretion of the court. Any person so convicted may not apply for any permit or license issued by the commissioner until five (5) years have elapsed from the date of such conviction.

(2) This section shall not apply to beer authorized to be made pursuant to Section 67-3-11.

(3) Any light wine, light spirit product or beer found in possession of, or sold by, a person in violation of this section shall be seized and disposed of in the manner provided for in Section 67-1-18.

SECTION 9. Section 67-3-17, Mississippi Code of 1972, is amended as follows:

67-3-17. (1) Any person desiring to engage in any business taxable under Sections 27-71-303 through 27-71-317, Mississippi

Code of 1972, either as a retailer, or as a wholesaler or distributor, or as a manufacturer, of light wines, light spirit products or beer, shall file with the commissioner an application for a permit allowing him to engage in such business. The application for a permit shall contain a statement showing the name of the business, and if a partnership, firm, association or limited liability company, the name of each partner or member, and if a corporation the names of two (2) principal officers, the post office address, and the nature of business in which engaged. In case any business is conducted at two (2) or more separate places, a separate permit for each place of business shall be required. The commissioner shall prescribe the form of the application and designate who is required to sign the application. The application shall be signed under penalty of perjury.

(2) The application shall include a statement that the applicant will not, except as otherwise authorized in this chapter, allow any alcoholic beverages as defined in Section 67-1-5, any beer having an alcoholic content of more than eight percent (8%) by weight, any spirit product having an alcoholic content of more than four percent (4%) by weight, or any wine * * * having an alcoholic content of more than five percent (5%) by weight, to be kept, stored or secreted in or on the premises described in such permit or license, and that the applicant will not otherwise violate any law of this state, or

knowingly allow any other person to violate any such law, while in or on such premises.

(3) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 10. Section 67-3-19, Mississippi Code of 1972, is amended as follows:

67-3-19. Where application is made for a permit to engage in the business of a retailer of light wine, light spirit product or beer, the applicant shall show in his application that he possesses the following qualifications:

(a) Applicant must be a person at least twenty-one (21) years of age, of good moral character and a resident of the State of Mississippi.

(b) Applicant shall not have been convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution, or have been convicted within two (2) years of the date of his application of any violation of the laws of this state or the laws of the United States relating to alcoholic liquor.

(c) Applicant shall not have had revoked, except for a violation of Section 67-3-52, within two (2) years next preceding his application, any license or permit issued to him pursuant to the laws of this state, or any other state, to sell alcoholic liquor of any kind.

(d) Applicant shall be the owner of the premises for which the permit is sought or the holder of an existing lease thereon.

(e) Applicant shall not be residentially domiciled with any person whose permit has been revoked for cause, except for a violation of Section 67-3-52, within two (2) years next preceding the date of the present application for a permit.

(f) The applicant has not had any license or permit to sell beer, light spirit product or light wine at retail revoked, within five (5) years next preceding his application, due to a violation of Section 67-3-52.

(g) Applicant shall not employ any person whose permit has been revoked when such person owned or operated the business on the premises for which a permit is sought or allow such person to have any financial interest in the business of the applicant, until such person is qualified to obtain a permit in his own name.

(h) The applicant is not indebted to the State of Mississippi for any taxes.

(i) If applicant is a partnership, all members of the partnership must be qualified to obtain a permit. Each member of the partnership must be a resident of the State of Mississippi.

(j) If applicant is a corporation, all officers and directors thereof, and any stockholder owning more than five percent (5%) of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the

corporation shall possess all the qualifications required herein for any individual permittee. However, the requirements as to residence shall not apply to officers, directors and stockholders of such corporation.

Any misstatement or concealment of fact in an application shall be ground for denial of the application or for revocation of the permit issued thereon.

The commissioner may refuse to issue a permit to an applicant for a place that is frequented by known criminals, prostitutes, or other law violators or troublemakers who disturb the peace and quietude of the community and frequently require the assistance of peace officers to apprehend such law violators or to restore order. The burden of proof of establishing the foregoing shall rest upon the commissioner.

SECTION 11. Section 67-3-22, Mississippi Code of 1972, is amended as follows:

67-3-22. (1) The production limits for a brewpub shall be based upon production as determined by the Department of Revenue pursuant to Section 27-71-307, Mississippi Code of 1972, and a brewpub shall not manufacture more than seventy-five thousand (75,000) gallons of light wine, light spirit product or beer per calendar year.

(2) Light wine, light spirit product or beer produced at a brewpub shall not be sold at a price less than it cost to manufacture such light wine, light spirit product or beer.

(3) Except as otherwise provided in this subsection, light wine, light spirit product or beer manufactured by a brewpub shall not be sold away from the premises of such brewpub (as defined in Section 27-71-301, Mississippi Code of 1972) and shall not be packaged in any form that it may be carried away from the premises; however, the final one hundred (100) gallons of beer within a fermenting tank may be placed in kegs for sale on the premises to facilitate transition from one fermenting tank to another. A brewpub may sell light wine, light spirit product or beer manufactured by it for consumption off the premises of the brewpub if the light wine, light spirit product or beer so sold is contained in a growler.

(4) A brewpub shall be required to offer for sale light wine, light spirit product or beer that is normally carried on the inventory of wholesalers or distributors of light wine, light spirit product or beer.

SECTION 12. Section 67-3-25, Mississippi Code of 1972, is amended as follows:

67-3-25. (1) Any permit issued authorizing the sale of light wines, light spirit products and/or beer for consumption shall be construed to authorize the sale of light wines, light spirit products and/or beer by the bottle, by the glass or by draught, and in or from the original package.

(2) The commissioner is authorized to establish, in his discretion, dates for the expiration of permits issued under this chapter.

(3) Except as otherwise provided in this section, permits shall be issued for twelve (12) months and shall be renewed annually on the first day of the month in which the permit expires. The commissioner may issue temporary permits for less than a full year. All permits shall show the effective date and expiration date of the permit, the business location, individual or business name and mailing address of the permittee.

SECTION 13. Section 67-3-27, Mississippi Code of 1972, is amended as follows:

67-3-27. Before any person shall engage in the business of manufacturer, wholesaler, distributor or retailer of light wines, light spirit products or beer, he shall apply to the commissioner for a license to engage in such business, and shall pay to the commissioner the specific tax imposed by Section 27-71-303, for the privilege of engaging in such business. The commissioner upon receipt of such tax shall issue to such person a privilege license to engage in or continue in such business for a period of time not to exceed one (1) year. No such license shall be issued to the applicant unless such applicant shall have obtained from the commissioner a permit as required in Section 67-3-17. A brewpub shall obtain all necessary federal licenses and permits prior to obtaining any license under this chapter.

All privilege licenses issued under the provisions of this section shall be renewed annually on or before the first day of the month in which the current license expires.

SECTION 14. Section 67-3-28, Mississippi Code of 1972, is amended as follows:

67-3-28. (1) Any person desiring to engage in business as a brewpub shall file with the commissioner, along with the application required by Section 67-3-17, Mississippi Code of 1972, a certificate issued by a licensed testing laboratory indicating that such laboratory has tested a sample of the applicant's beer, light spirit product or light wine, or * * * a combination thereof, and that the alcohol content of such sample of beer does not exceed eight percent (8%) by weight, and the alcohol content of such sample of light spirit product does not exceed four percent (4%) by weight, and the alcoholic content of such sample of light wine does not exceed five percent (5%) by weight.

(2) Every brewpub shall be required to submit to random testing by the commissioner to determine whether any beer being manufactured, sold, kept, stored or secreted by the license holder contains an alcohol content greater than eight percent (8%) by weight, and light spirit product being manufactured, sold, kept, stored or secreted by the license holder contains an alcoholic content greater than four percent (4%) by weight, and any light wine being manufactured, sold, kept, stored or secreted by the license holder contains an alcoholic content greater than five

percent (5%) by weight. The commissioner shall establish and administer testing standards and procedures to be used in such random testing. The brewpub licensee shall be responsible for all costs incurred by the commissioner in conducting random testing under this section.

SECTION 15. Section 67-3-29, Mississippi Code of 1972, is amended as follows:

67-3-29. (1) The commissioner, or a hearing officer or the board of review, as designated by the commissioner, after a show cause hearing, shall revoke or suspend any permit granted by authority of this chapter to any person who shall violate any of the provisions of this chapter or the revenue laws of this state relating to engaging in transporting, storing, selling, distributing, possessing, receiving or manufacturing of wines or beers, or any person who shall hereafter be convicted of the unlawful sale of intoxicating liquor, or any person who shall allow or permit any form of illegal gambling or immorality on the premises described in such permit. The commissioner shall not revoke or suspend a permit of a retailer for the sale of light wine, light spirit product or beer to a person under the age of twenty-one (21) years until there has been a conviction of the permit holder or an employee of the permit holder for such violation.

(2) If any person exercising any privilege taxable under the provisions of Chapter 71 of Title 27, Mississippi Code of 1972,

shall willfully neglect or refuse to comply with the provisions of such chapter, or any rules or regulations promulgated by the commissioner under authority of such chapter, or the provisions of this chapter, including maintaining the qualifications of an applicant under Section 67-3-19, during the permit period, the commissioner shall be authorized to revoke or suspend the permit theretofore issued to the person. Any person whose permit shall have been revoked by the commissioner shall be thereafter prohibited from exercising any privilege under the provisions of Chapter 71 of Title 27, Mississippi Code of 1972, for a period of two (2) years from the date of the revocation. The commissioner may, however, for good cause shown, grant a new permit upon such conditions as the commissioner may prescribe. Any person whose permit shall have been suspended by the commissioner shall be prohibited from exercising any privilege under the provisions of Chapter 71 of Title 27, Mississippi Code of 1972, during the period of the suspension. Failure of the person to comply with the terms of the suspension shall be cause for revocation of his permit, in addition to the other penalties provided by law.

(3) In addition to the reasons specified in this section and other provisions of this chapter, the commissioner shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the

reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 16. Section 67-3-41, Mississippi Code of 1972, is amended as follows:

67-3-41. Sections 67-3-31 through 67-3-41 and Section 67-3-53 are declared to be cumulative, amendatory, and supplemental to any and all other acts and laws of this state pertaining to the governing of the sale and distribution of light wines, light spirit products and beers as contained in Sections 27-71-301 through 27-71-347, Mississippi Code of 1972, and Sections 67-3-17, 67-3-23, 67-3-27, 67-3-29(2), 67-3-55, and 67-3-57.

SECTION 17. Section 67-3-45, Mississippi Code of 1972, is amended as follows:

67-3-45. No manufacturer, distributor or wholesale dealer to whom or to which this chapter applies shall:

(a) Make any loan, directly or indirectly, or furnish any fixtures of any kind, directly or indirectly, to any retail dealer in light wines, light spirit products and/or beer;

(b) Have any interest, direct or indirect, in the business of or in the furnishings or fixtures or in the premises used by any such retail dealer in connection with his or its business;

(c) Have any lien on any such property of any such retail dealer; or

(d) Sell light wines, light spirit products and/or beer to any such retail dealer on credit.

This section shall not apply to a brewpub licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi Code of 1972.

SECTION 18. Section 67-3-46, Mississippi Code of 1972, is amended as follows:

67-3-46. (1) The provisions of subsection (2) of this section apply to the following entities:

(a) Any person engaged in the business of brewing or manufacturing beer or in the business of manufacturing or producing light wines or light spirit products;

(b) An officer, director, agent or employee of an entity described in paragraph (a) of this subsection;

(c) An affiliate of an entity described in paragraph (a) of this subsection, regardless of whether the affiliation is corporate or by management, direction or control.

(2) No entity named in subsection (1) of this section may have any interest in the license, business, assets or corporate stock of a wholesaler or distributor to whom this chapter applies,

except a security interest granted to the entity of the type provided for the Uniform Commercial Code in products sold to a wholesaler or distributor until the full purchase price has been paid therefor.

SECTION 19. Section 67-3-48, Mississippi Code of 1972, is amended as follows:

67-3-48. (1) A small craft brewery may sell at retail light wine, light spirit product or beer produced at its brewery for consumption on the premises of the brewery and consumption off the premises of the brewery if the sales are made on the premises of the brewery and the light wine, light spirit product or beer products offered for sale are also made available for sale to wholesalers.

(2) (a) A small craft brewery shall not sell at retail more than ten percent (10%) of the light wine, light spirit product or beer produced annually at its brewery or more than one thousand five hundred (1,500) barrels of light wine, light spirit product or beer produced at the brewery annually, whichever is the lesser amount. For purposes of this subsection, contract-brewed beer shall not be included in the amount of beer produced annually at the brewery. The light wine, light spirit product or beer must be sold at a price approximating retail prices generally charged for identical beverages in the county where the brewery is located.

(b) A small craft brewery shall not make retail sales of more than five hundred seventy-six (576) ounces, in the

aggregate, of light wine, light spirit product or beer to any one (1) individual for consumption off the premises of the brewery within a twenty-four-hour period.

(c) The limits on sales provided for in this subsection shall not apply to beer provided pursuant to Section 67-3-47.

(3) A small craft brewery shall take commercially reasonable steps to ensure that light wine, light spirit product or beer products sold for consumption off the premises of the brewery are being sold for personal use and not for resale and are not being sold to anyone holding a retail permit for the purpose of resale in their establishment.

(4) A small craft brewery shall not make retail sales of contract-brewed beer.

(5) A small craft brewery shall not mail or ship light wine, light spirit product or beer to a consumer.

SECTION 20. Section 67-3-48.1, Mississippi Code of 1972, is amended as follows:

67-3-48.1. (1) In the event a small craft brewery is acquired by an entity that manufactures light wine, light spirit product or beer that does not fall within the definition of the term "small craft brewery," the entity that acquired the small craft brewery may continue to operate the brewery as a small craft brewery for as long as the acquired facility meets the definition of the term "small craft brewery"; however, the limit in Section 67-3-3 on the amount of barrels of light wine, light spirit

product or beer that a small craft brewery may produce shall not apply to light wine, light spirit product or beer that is not produced by the acquired small craft brewery.

(2) In the event a small craft brewery acquires an entity that manufactures light wine, light spirit product or beer that does not fall within the definition of the term "small craft brewery," the small craft brewery that acquired the entity may continue to operate as a small craft brewery for as long as the brewery meets the definition of the term "small craft brewery." The light wine, light spirit product or beer produced by the entity that is acquired by a small craft brewery shall not apply to the limit in Section 67-3-3 on the amount of light wine, light spirit product or beer that the small craft brewery may produce.

(3) A small craft brewery described in subsections (1) and (2) of this section may continue to sell at retail brands the small craft brewery produces on its premises at all locations at which it was selling the brands at retail at the time of the acquisition; however, the small craft brewery may not sell at retail brands produced by the entity that acquired it or by the entity it acquires, as the case may be.

SECTION 21. Section 67-3-49, Mississippi Code of 1972, is amended as follows:

67-3-49. (1) Except as otherwise provided in this section, it shall be unlawful for any brewer or manufacturer or distributor or wholesale dealer of or in light wines, light spirit products

and/or beer to manufacture or knowingly bring upon his premises or keep thereon any wine of an alcoholic content of more than five percent (5%) by weight * * *, any light spirit product of an alcoholic content of more than four percent (4%) by weight, any beer of an alcoholic content of more than eight percent (8%) by weight, or any distilled spirits of any alcoholic content whatsoever. Any person that shall add to or mix with any beer, light spirit product or light wine any alcoholic or other liquid, or any alcohol cube or cubes, or any other ingredient or ingredients that will increase or tend to increase the alcoholic content of such liquor, or any person that shall knowingly offer for sale any liquor so treated, shall be guilty of a misdemeanor and punished as hereinafter provided in this chapter. The commissioner shall take any action he considers necessary to ensure that light wine, light spirit product and/or beer manufactured at a brewpub complies with the provisions of this section.

(2) A brewer or manufacturer of light wine, light spirit product or beer may manufacture and keep upon his premises beer of an alcoholic content of more than eight percent (8%) by weight if the beer is manufactured for legal sale in another state.

SECTION 22. Section 67-3-51, Mississippi Code of 1972, is amended as follows:

67-3-51. (1) It shall be unlawful for any person to sell, or offer to sell, or keep for sale any bottled beer, bottled light

spirit product or bottled light wine except the same be in the original bottle or in the original package containing bottles, each of which bottles shall bear the original label and the full name of the brewer or manufacturer of the contents of such bottle, both on the label and on the cap or cork of such bottle in the case of beer, and on the label only in the case of light wine and light spirit product.

(2) It shall be unlawful for any person to sell, or offer for sale, or keep for sale any beer, light spirit product or light wine in the original package or packages unless each such original package (whether barrel or other container, and whether containing liquor in bottles or otherwise) shall have plainly stamped on the container or label for each such container the full name of the manufacturer of the liquor therein contained.

(3) It shall be unlawful for any person to sell on draught any beer, light spirit product or light wine except the same be drawn from the original barrel or other container, which such container shall have plainly stamped on each end thereof the full name of the manufacturer of such liquor.

(4) This section shall not apply to beer offered and provided on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47.

SECTION 23. Section 67-3-52, Mississippi Code of 1972, is amended as follows:

67-3-52. It shall be unlawful for any person holding a permit authorizing the sale of beer, light spirit product or light wine at retail to obtain such beer, light spirit product or light wine from any source outside of the State of Mississippi. Any person who violates the provisions of this section, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court. Any person convicted of violating this section, or any rules or regulations promulgated by the commissioner with regard to the unlawful acts described in this section, shall forfeit his permit. Any person whose permit has been forfeited pursuant to this section shall not be eligible for a permit issued by the commissioner for a period of five (5) years after the date of such forfeiture. In addition, no permit shall be issued for the same location, for which an offender has forfeited a permit pursuant to this section, to a spouse, offspring or sibling of the offender when to do so would circumvent the purposes of this section. The commissioner may assess a retailer who violates this section the amount of excise taxes due on the unlawfully imported beer, light spirit product or light wine, together with a penalty in the amount of four (4) times the state excise taxes due or One Hundred Dollars ($100.00) per case, whichever is greater.

SECTION 24. Section 67-3-53, Mississippi Code of 1972, is amended as follows:

67-3-53. In addition to any act declared to be unlawful by this chapter, or by Sections 27-71-301 through 27-71-347, and Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be unlawful for the holder of a permit authorizing the sale of beer, light spirit product or light wine at retail or a small craft brewery selling light wine, light spirit product or beer at retail pursuant to Section 67-3-48 or for the employee of the holder of such a permit or the employee of such a brewery:

(a) To sell or give to be consumed in or upon any licensed premises or in or upon the premises of a small craft brewery any beer, light spirit product or light wine between the hours of midnight and seven o'clock the following morning or during any time the licensed premises may be required to be closed by municipal ordinance or order of the board of supervisors; however, in areas where the sale of alcoholic beverages is legal under the provisions of the Local Option Alcoholic Beverage Control Law and the hours for selling those alcoholic beverages have been extended beyond midnight for on-premises permittees under Section 67-1-37, the hours for selling beer, light spirit products or light wines are likewise extended in areas where the sale of beer, light spirit products and light wines is legal in accordance with the provisions of this chapter.

(b) To sell, give or furnish any beer, light spirit product or light wine to any person visibly or noticeably intoxicated, or to any habitual drunkard, or to any person under the age of twenty-one (21) years.

(c) To permit in the premises any lewd, immoral or improper entertainment, conduct or practices.

(d) To permit loud, boisterous or disorderly conduct of any kind upon the premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community in which the business is located.

(e) To permit persons of ill repute, known criminals, prostitutes or minors to frequent the licensed premises or the premises of the small craft brewery, except minors accompanied by parents or guardians, or under proper supervision.

(f) To permit or suffer illegal gambling or the operation of illegal games of chance upon the licensed premises or the premises of the small craft brewery.

(g) To receive, possess or sell on the licensed premises or, except as otherwise authorized by this chapter, on the premises of the small craft brewery any beverage of any kind or character containing more than five percent (5%) of alcohol by weight except any beer containing not more than eight percent (8%) of alcohol by weight, unless the licensee also possesses an on-premises or manufacturer's permit under the Local Option Alcoholic Beverage Control Law.

(h) To accept as full or partial payment for any product any coupons that are redeemed directly or indirectly from a manufacturer, wholesaler or distributor of light wine, light spirit product or beer.

SECTION 25. Section 67-3-54, Mississippi Code of 1972, is amended as follows:

67-3-54. (1) A person who is at least eighteen (18) years of age but under the age of twenty-one (21) years may possess and consume light wine, light spirit product or beer with the consent of his parent or legal guardian in the presence of his parent or legal guardian, and it shall not be unlawful for the parent, legal guardian or spouse of such person to furnish light wine, light spirit product or beer to such person who is at least eighteen (18) years of age.

(2) A person who is at least eighteen (18) years of age and who is serving in the armed services of the United States may lawfully possess and consume light wine, light spirit product or beer on military property where the consumption of light wine, light spirit product or beer is allowed.

(3) A person who is under twenty-one (21) years of age shall not be deemed to unlawfully possess or furnish light wine, light spirit product or beer, if in the scope of his employment such person:

(a) Clears or buses tables that have glasses or other containers that contain or did contain light wine, light spirit product or beer;

(b) Waits on tables by taking orders for light wine, light spirit product or beer; or

(c) Stocks, bags or otherwise handles purchases of light wine, light spirit product or beer at a store.

SECTION 26. Section 67-3-55, Mississippi Code of 1972, is amended as follows:

67-3-55. (1) It shall be unlawful for any retailer to possess for purpose of sale, to sell, or to offer to sell any light wine, light spirit product or beer which was not purchased from a wholesaler in this state who has a permit to sell such light wine, light spirit product or beer, except for beer, light spirit product or light wine that was brewed on the premises of the retailer who holds a permit as a brewpub pursuant to Article 3, Chapter 71, Title 27, Mississippi Code of 1972.

(2) It shall be unlawful for any wholesaler to possess for purpose of sale, to sell, or to offer to sell any light wine, light spirit product or beer which was not purchased from a manufacturer or importer of a foreign manufacturer authorized to sell such light wine, light spirit product or beer in this state.

(3) This section shall not apply to:

(a) Beer offered and provided on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47; or

(b) Light wine, light spirit product or beer sold on the premises of a small craft brewery as authorized in Section 67-3-48.

SECTION 27. Section 67-3-57, Mississippi Code of 1972, is amended as follows:

67-3-57. (1) It shall be unlawful for any retailer to possess, sell or offer to sell, or to possess for purpose of sale, any light wine, light spirit product or beer at his place of business before securing a permit required by this chapter.

(2) It shall be unlawful for any person to possess, sell or offer to sell any light wine, light spirit product or beer at his place of business after revocation of his permit or to purchase, to sell or offer to sell any light wine, light spirit product or beer during the period of suspension of his permit.

(3) Any light wine, light spirit product or beer found in possession of, or sold by, a person in violation of this section shall be seized and disposed of in the manner provided for in Section 67-1-18.

SECTION 28. Section 67-3-59, Mississippi Code of 1972, is amended as follows:

67-3-59. (1) Except as provided in this subsection, sales by wholesalers, distributors or manufacturers to persons who do

not hold valid permits are unlawful; and any wholesaler, distributor or manufacturer making such sales, or who sells any beer, light spirit product or light wine on which the tax provided by law has not been paid, shall, in addition to any other fines, penalties and forfeitures, be subject to a penalty of Twenty-five Dollars ($25.00) for each sale. If all other applicable taxes are paid, this penalty will not apply to the following: sales to employees of the wholesaler; sales to nonprofit charitable and civic organizations for special fund-raising events provided that the beer, light spirit product or light wine is not resold; sales to affiliated member associations.

(2) The commissioner may assess the penalty by giving notice by mail, demanding payment within thirty (30) days from date of delivery of the notice.

The proceeds of all penalties shall be deposited by the commissioner with the other monies collected by him and shall be disposed of as provided by law.

SECTION 29. Section 67-3-61, Mississippi Code of 1972, is amended as follows:

67-3-61. Every railroad company, express company, aeroplane company, motor transportation company, steamboat company, or other transportation company, or any person that shall transport into, from place to place within, or out of this state any light wines, light spirit products or beer, whether brewed or manufactured within this state or outside of this state, when requested by the

commissioner, shall furnish him with a duplicate of the bill of lading covering the receipt for such liquor, showing the name of the brewer or manufacturer or distributor, and the name and address of the consignor and of the consignee, and the date when and place where received, and the destination and the quantity of such liquor received from the manufacturer or brewer or other consignor for shipment from any point within or without this state to any point within this state.

Any such company or person so transporting any such liquor that shall fail to comply with the requirements of this section, shall forfeit and pay to the State of Mississippi the sum of One Hundred Dollars ($100.00) for each such failure, to be recovered in any court of competent jurisdiction. The commissioner is hereby authorized and empowered to sue in his own name, on the relation and for the use of the State of Mississippi, for such recovery.

SECTION 30. Section 67-3-63, Mississippi Code of 1972, is amended as follows:

67-3-63. The commissioner shall cause a record to be kept of the names and places of business of all persons engaged in the brewing of beer, of all persons engaged in the manufacture of light wines or light spirit products, and of all persons engaged in the sale of light wines, light spirit products and/or beer, whether at retail or otherwise. He shall also cause a record to be kept of all beer, light spirit products and light wines (and of

the amount thereof) brewed or manufactured by each brewery or winery, and of all such liquors (and of the amount thereof) sold by each brewery or winery, with the names and business addresses of the purchasers, and of all such liquors (and of the amount thereof) sold by every dealer other than a brewer or manufacturer, and in the case of sales by dealers other than retail dealers, of the names and business addresses of the purchasers.

The commissioner shall cause a record to be kept of all expenses incurred in the collection of such data.

SECTION 31. Section 67-3-65, Mississippi Code of 1972, is amended as follows:

67-3-65. Municipalities may enforce such proper rules and regulations for fixing zones and territories, prescribing hours of opening and of closing, and for such other measures as will promote public health, morals, and safety, as they may by ordinance provide. The board of supervisors of any county may make such rules and regulations as to territory outside of municipalities as are herein provided for municipalities.

Nothing in this chapter shall prohibit the governing body of any municipality from designating what territory surrounding churches and schools in said municipalities, and the board of supervisors of any county from designating what territory surrounding churches and schools outside of any municipality, in which light wines, light spirit products and beer shall not be sold or consumed.

SECTION 32. Section 67-3-67, Mississippi Code of 1972, is amended as follows:

67-3-67. No county or any officer or agent thereof, nor any other officer, agent, or person, shall interfere with or impede the passage through such county of any light wine, light spirit product or beer moving in accordance with the provisions of this chapter and the provisions of Section 67-9-1 and which in transit to or from any county of this state wherein the traffic in light wines, light spirit products and beer is not prohibited, any county prohibition of such traffic to the contrary notwithstanding.

SECTION 33. Section 67-3-69, Mississippi Code of 1972, is amended as follows:

67-3-69. (1) Except as to Sections 67-3-17, 67-3-23, 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of this chapter or of any rule or regulation of the commissioner, shall be a misdemeanor and, where the punishment therefor is not elsewhere prescribed in this section, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or imprisonment for not more than six (6) months, or both, in the discretion of the court. If any person so convicted shall be the holder of any permit or license issued by the commissioner under authority of this chapter, the permit or license shall from and after the date of such conviction be void and the holder thereof shall not thereafter, for a period of one (1) year from the date of such

conviction, be entitled to any permit or license for any purpose authorized by this chapter. Upon conviction of the holder of any permit or license, the appropriate law enforcement officer shall seize the permit or license and transmit it to the commissioner.

(2) (a) Any person who shall violate any provision of Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

(b) Any person who shall violate any provision of Section 67-3-57 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than one (1) year, or by both, in the discretion of the court. Any person convicted of violating any provision of the sections referred to in this subsection shall forfeit his permit, and shall not thereafter be permitted to engage in any business taxable under the provisions of Sections 27-71-301 through 27-71-347.

(3) If the holder of a permit, or the employee of the holder of a permit, shall be convicted of selling any beer, light spirit product or wine to anyone who is visibly intoxicated from the licensed premises or to any person under the age of twenty-one

(21) years from the licensed premises in violation of Section 67-3-53(b), then, in addition to any other penalty provided for by law, the commissioner may impose the following penalties against the holder of a permit:

(a) For the first offense on the licensed premises, by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) and/or suspension of the permit for not more than three (3) months.

(b) For a second offense occurring on the licensed premises within twelve (12) months of the first offense, by a fine of not less than Five Hundred Dollars ($500.00) nor more than Two Thousand Dollars ($2,000.00) and/or suspension of the permit for not more than six (6) months.

(c) For a third offense occurring on the licensed premises within twelve (12) months of the first, by a fine of not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00) and/or suspension or revocation of the permit to sell beer, light spirit product or light wine.

(d) For a fourth or subsequent offense occurring on the licensed premises within twelve (12) months of the first, by a fine of not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00) and/or suspension or revocation of the permit to sell beer, light spirit product or light wine.

(4) A person who sells any beer, light spirit product or wine to a person under the age of twenty-one (21) years shall not be guilty of a violation of Section 67-3-53(b) if the person under the age of twenty-one (21) years represents himself to be twenty-one (21) years of age or older by displaying an apparently valid Mississippi driver's license containing a physical description consistent with his appearance or by displaying some other apparently valid identification document containing a picture and physical description consistent with his appearance for the purpose of inducing the person to sell beer, light spirit product or wine to him.

(5) If the holder of a permit to operate a brewpub is convicted of violating the provisions of Section 67-3-22(3), then, in addition to any other provision provided for by law, the holder of the permit shall be punished as follows:

(a) For the first offense, the holder of a permit to operate a brewpub may be fined in an amount not to exceed Five Hundred Dollars ($500.00).

(b) For a second offense occurring within twelve (12) months of the first offense, the holder of a permit to operate a brewpub may be fined an amount not to exceed One Thousand Dollars ($1,000.00).

(c) For a third or subsequent offense occurring within twelve (12) months of the first offense, the holder of a permit to operate a brewpub may be fined an amount not to exceed Five

Thousand Dollars ($5,000.00) and the permit to operate a brewpub shall be suspended for thirty (30) days.

(6) If a small craft brewery is convicted of violating the provisions of Section 67-3-48, then, in addition to any other provision provided for by law, the small craft brewery shall be punished as follows:

(a) For the first offense, the small craft brewery may be fined in an amount not to exceed Five Hundred Dollars ($500.00).

(b) For a second offense occurring within twelve (12) months of the first offense, the small craft brewery may be fined an amount not to exceed One Thousand Dollars ($1,000.00).

(c) For a third or subsequent offense occurring within twelve (12) months of the first offense, the small craft brewery may be fined an amount not to exceed Five Thousand Dollars ($5,000.00) and the permit to operate as a manufacturer shall be suspended for thirty (30) days.

SECTION 34. Section 67-3-70, Mississippi Code of 1972, is amended as follows:

67-3-70. (1) Except as otherwise provided by Section 67-3-54, any person under the age of twenty-one (21) years who purchases or possesses any light wine, light spirit product or beer shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Two Hundred Dollars

($200.00) nor more than Five Hundred Dollars ($500.00) and a sentence to not more than thirty (30) days community service.

(2) Any person under the age of twenty-one (21) years who falsely states he is twenty-one (21) years of age or older or presents any document that indicates he is twenty-one (21) years of age or older for the purpose of purchasing or possessing any light wine, light spirit product or beer shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) and a sentence to not more than thirty (30) days community service.

(3) Except as otherwise provided by Section 67-3-54, any person who knowingly purchases light wine, light spirit product or beer for, or gives light wine, light spirit product or beer to a person under the age of twenty-one (21) years, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) and a sentence to not more than thirty (30) days community service. The punishment provided under this subsection shall not be applicable to violations of Section 97-5-49.

(4) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(5) If a person under the age of twenty-one (21) years is convicted or enters a plea of guilty of violating subsection (1) or subsection (2) of this section, the trial judge, in lieu of the penalties otherwise provided under this section, shall suspend the minor's driver's license by taking and keeping it in the custody of the court for a period of time not to exceed ninety (90) days. The judge so ordering the suspension shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF CONVICTION" and such action by the trial judge shall not constitute a conviction. During the period that the minor's driver's license is suspended, the trial judge shall suspend the imposition of any fines or penalties that may be imposed under this section and may place the minor on probation subject to such conditions as the judge deems appropriate. If the minor violates any of the conditions of probation, then the trial judge shall return the driver's license to the minor and impose the fines, penalties, or both, that he would have otherwise imposed, and such action shall constitute a conviction.

(6) Any person who has been charged with a violation of subsections (1) or (2) of this section may, not sooner than one (1) year after the dismissal and discharge or completion of any sentence and/or payment of any fine, apply to the court for an order to expunge from all official records all recordation relating to his arrest, trial, finding or plea of guilty, and dismissal and discharge. If the court determines that such person

was dismissed and the proceedings against him discharged or that such person had satisfactorily served his sentence and/or paid his fine, it shall enter such order.

SECTION 35. Section 67-3-73, Mississippi Code of 1972, is amended as follows:

67-3-73. (1) The Mississippi Legislature finds and declares that the consumption of intoxicating beverages, rather than the sale or serving or furnishing of such beverages, is the proximate cause of any injury, including death and property damage, inflicted by an intoxicated person upon himself or upon another person.

(2) Notwithstanding any other law to the contrary, no holder of an alcoholic beverage, beer, light spirit product or light wine permit, or any agent or employee of such holder, who lawfully sells or serves intoxicating beverages to a person who may lawfully purchase such intoxicating beverages, shall be liable to such person or to any other person or to the estate, or survivors of either, for any injury suffered off the licensed premises, including wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were sold or served.

(3) Notwithstanding any other law to the contrary, no social host who serves or furnishes any intoxicating beverage to a person who may lawfully consume such intoxicating beverage shall be liable to such person or to any other person or to the estate, or

survivors of either, for any injury suffered off such social host's premises, including wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were served or furnished. No social host who owns, leases or otherwise lawfully occupies a premises on which, in his absence and without his consent, intoxicating beverages are consumed by a person who may lawfully consume such intoxicating beverage shall be liable to such person or to any other person or to the estate, or survivors of either, for any injury suffered off the premises, including wrongful death and property damage, because of the intoxication of the person who consumed the intoxicating beverages.

(4) The limitation of liability provided by this section shall not apply to any person who causes or contributes to the consumption of alcoholic beverages by force or by falsely representing that a beverage contains no alcohol, or to any holder of an alcoholic beverage, beer, light spirit product or light wine permit, or any agent or employee of such holder when it is shown that the person making a purchase of an alcoholic beverage was at the time of such purchase visibly intoxicated.

SECTION 36. Section 67-3-74, Mississippi Code of 1972, is amended as follows:

67-3-74. (1) In addition to peace officers within their jurisdiction, all enforcement officers of the Alcoholic Beverage Control Division of the Department of Revenue are authorized to

enforce the provisions made unlawful by this chapter and Section 97-5-49; however, the provisions prohibiting the sale of light wine, light spirit product or beer to persons under the age of twenty-one (21) years shall be enforced by the division as provided for in this section.

(2) (a) The Alcoholic Beverage Control Division shall investigate violations of the laws prohibiting the sale of light wine, light spirit product or beer to persons under the age of twenty-one (21) years upon receipt of a complaint or information from a person stating that they have knowledge of such violation.

(b) Upon receipt of such complaint or information, the Alcoholic Beverage Control Division shall notify the permit holder of the complaint by certified mail to the primary business office of such permit holder or by hand delivery of the complaint or information to the primary business office of such holder, except in cases where the complaint or information is received from any law enforcement officer.

(c) If an enforcement officer of the Alcoholic Beverage Control Division enters the business of the holder of the permit to investigate a complaint and discovers a violation, the agent shall notify the person that committed the violation and the holder of the permit:

(i) Within ten (10) days after such violation, Sundays and holidays excluded, if the business sells light wine, light spirit product or beer for on-premises consumption; and

(ii) Within seventy-two (72) hours after such violation, Sundays and holidays excluded, if the business does not sell light wine, light spirit product or beer for on-premises consumption.

SECTION 37. Section 67-1-5, Mississippi Code of 1972, is amended as follows:

67-1-5. For the purposes of this chapter and unless otherwise required by the context:

(a) "Alcoholic beverage" means any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine, light spirit product and beer, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes or beer of an alcoholic content of more than eight percent (8%) by weight if the beer is legally manufactured in this state for sale in another state.

(b) "Alcohol" means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

(c) "Distilled spirits" means any beverage containing more than four percent (4%) of alcohol by weight produced by

distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

(d) "Wine" or "vinous liquor" means any product obtained from the alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries and made in accordance with the revenue laws of the United States.

(e) "Person" means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

(f) "Manufacturer" means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcoholic beverage.

(g) "Wholesaler" means any person, other than a manufacturer, engaged in distributing or selling any alcoholic beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

(h) "Retailer" means any person who sells, distributes, or offers for sale or distribution, any alcoholic beverage for use or consumption by the purchaser and not for resale.

(i) "State Tax Commission," "commission" or "department" means the Department of Revenue of the State of Mississippi, which shall create a division in its organization to be known as the Alcoholic Beverage Control Division. Any reference to the commission or the department hereafter means the

powers and duties of the Department of Revenue with reference to supervision of the Alcoholic Beverage Control Division.

(j) "Division" means the Alcoholic Beverage Control Division of the Department of Revenue.

(k) "Municipality" means any incorporated city or town of this state.

(l) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the department, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be constantly frequented by customers each day. When used in this chapter, the word "hotel" shall also be construed to include any establishment that meets the definition of "bed and breakfast inn" as provided in this section.

(m) "Restaurant" means:

(i) A place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for

compensation, which has suitable seating facilities for guests, and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. Except as otherwise provided in this paragraph, no place shall qualify as a restaurant under this chapter unless twenty-five percent (25%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to twenty-five percent (25%) or more of total revenue; or

(ii) Any privately owned business located in a building in a historic district where the district is listed in the National Register of Historic Places, where the building has a total occupancy rating of not less than one thousand (1,000) and where the business regularly utilizes ten thousand (10,000) square feet or more in the building for live entertainment, including not only the stage, lobby or area where the audience sits and/or stands, but also any other portion of the building necessary for the operation of the business, including any kitchen area, bar area, storage area and office space, but excluding any area for parking. In addition to the other requirements of this subparagraph, the business must also serve food to guests for compensation within the building and derive the majority of its

revenue from event-related fees, including, but not limited to, admission fees or ticket sales to live entertainment in the building, and from the rental of all or part of the facilities of the business in the building to another party for a specific event or function.

(n) "Club" means an association or a corporation:

(i) Organized or created under the laws of this state for a period of five (5) years prior to July 1, 1966;

(ii) Organized not primarily for pecuniary profit but for the promotion of some common object other than the sale or consumption of alcoholic beverages;

(iii) Maintained by its members through the payment of annual dues;

(iv) Owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests;

(v) The affairs and management of which are conducted by a board of directors, board of governors, executive committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

(vi) No member, officer, agent or employee of which is paid, or directly or indirectly receives, in the form of a salary or other compensation any profit from the distribution or sale of alcoholic beverages to the club or to members or guests of

the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

The department may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file with the department, at the time of its application for a license under this chapter, two (2) copies of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the department at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the department. The department may not approve an area as a qualified resort area after July 1, 2018,

if any portion of such proposed area is located within two (2) miles of a convent or monastery that is located in a county traversed by Interstate 55 and U.S. Highway 98. A convent or monastery may waive such distance restrictions in favor of allowing approval by the department of an area as a qualified resort area. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the convent or monastery having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

(i) The department may approve an area or locality outside of the limits of an incorporated municipality that is in the process of being developed as a qualified resort area if such area or locality, when developed, can reasonably be expected to meet the requisites of the definition of the term "qualified resort area." In such a case, the status of qualified resort area shall not take effect until completion of the development.

(ii) The term includes any state park which is declared a resort area by the department; however, such declaration may only be initiated in a written request for resort area status made to the department by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for the sale of any alcoholic beverage, as defined in this chapter, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes:

1. The clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle State Park, the Percy Quin State Park and the Hugh White State Park;

2. The clubhouse and associated golf course where the golf course is adjacent to one or more planned residential developments and the golf course and all such developments collectively include at least seven hundred fifty (750) acres and at least four hundred (400) residential units;

3. Any facility located on property that is a game reserve with restricted access that consists of at least three thousand (3,000) contiguous acres with no public roads and that offers as a service hunts for a fee to overnight guests of the facility;

4. Any facility located on federal property surrounding a lake and designated as a recreational area by the United States Army Corps of Engineers that consists of at least one thousand five hundred (1,500) acres;

5. Any facility that is located in a municipality that is bordered by the Pearl River, traversed by Mississippi Highway 25, adjacent to the boundaries of the Jackson International Airport and is located in a county which has voted against coming out from under the dry law; however, any such

facility may only be located in areas designated by the governing authorities of such municipality;

6. Any municipality with a population in excess of ten thousand (10,000) according to the latest federal decennial census that is located in a county that is bordered by the Pearl River and is not traversed by Interstate Highway 20, with a population in excess of forty-five thousand (45,000) according to the latest federal decennial census; however, the governing authorities of such a municipality may by ordinance:

a. Specify the hours of operation of facilities that offer alcoholic beverages for sale;

b. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages;

c. Designate the areas in which facilities that offer alcoholic beverages for sale may be located;

7. The West Pearl Restaurant Tax District as defined in Chapter 912, Local and Private Laws of 2007;

8. a. Land that is located in any county in which Mississippi Highway 43 and Mississippi Highway 25 intersect and:

A. Owned by the Pearl River Valley Water Supply District, and/or

B. Located within the Reservoir Community District, zoned commercial, east of Old Fannin Road, north of Regatta Drive, south of Spillway Road, west of Hugh Ward Boulevard and accessible by Old Fannin Road, Spillway Road, Spann Drive and/or Lake Vista Place, and/or

C. Located within the Reservoir Community District, zoned commercial, west of Old Fannin Road, south of Spillway Road and extending to the boundary of the corporate limits of the City of Flowood, Mississippi;

b. The board of supervisors of such county, with respect to B and C of this item 8, may by resolution or other order:

A. Specify the hours of operation of facilities that offer alcoholic beverages for sale,

B. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages, and

C. Designate the areas in which facilities that offer alcoholic beverages for sale may be located;

9. Any facility located on property that is a game reserve with restricted access that consists of at least eight hundred (800) contiguous acres with no public roads, that offers as a service hunts for a fee to overnight guests of the

facility, and has accommodations for at least fifty (50) overnight guests;

10. Any facility that:

a. Consists of at least six thousand (6,000) square feet being heated and cooled along with an additional adjacent area that consists of at least two thousand two hundred (2,200) square feet regardless of whether heated and cooled,

b. For a fee is used to host events such as weddings, reunions and conventions,

c. Provides lodging accommodations regardless of whether part of the facility and/or located adjacent to or in close proximity to the facility, and

d. Is located on property that consists of at least thirty (30) contiguous acres;

11. Any facility and related property:

a. Located on property that consists of at least one hundred twenty-five (125) contiguous acres and consisting of an eighteen (18) hole golf course, and/or located in a facility that consists of at least eight thousand (8,000) square feet being heated and cooled,

b. Used for the purpose of providing meals and hosting events, and

c. Used for the purpose of teaching culinary arts courses and/or turf management and grounds keeping courses, and/or outdoor recreation and leadership courses;

12. Any facility and related property that:

a. Consist of at least eight thousand (8,000) square feet being heated and cooled,

b. For a fee is used to host events,

c. Is used for the purpose of culinary arts courses, and/or outdoor recreation and leadership courses;

13. The clubhouse and associated golf course where the golf course is adjacent to one or more residential developments and the golf course and all such developments collectively include at least two hundred (200) acres and at least one hundred fifty (150) residential units and are located a. in a county that has voted against coming out from under the dry law; and b. outside of but in close proximity to a municipality in such county which has voted under Section 67-1-14, after January 1, 2013, to come out from under the dry law;

14. The clubhouse and associated eighteen (18) hole golf course located in a municipality traversed by Interstate Highway 55 and U.S. Highway 51 that has voted to come out from under the dry law;

15. Land that is planned for mixed use development and consists of at least two hundred (200) contiguous acres with one or more planned residential developments

collectively planned to include at least two hundred (200) residential units when completed and which land is located:

a. In a county that has voted to come out from under the dry law,

b. Outside the corporate limits of any municipality in such county and adjacent to or in close proximity to a golf course located in a municipality in such county, and

c. Within one (1) mile of a state institution of higher learning.

The status of these municipalities, districts, clubhouses, facilities, golf courses and areas described in subparagraph (iii) of this paragraph (o) as qualified resort areas does not require any declaration of same by the department.

(p) "Native wine" means any product, produced in Mississippi for sale, having an alcohol content not to exceed twenty-one percent (21%) by weight and made in accordance with revenue laws of the United States, which shall be obtained primarily from the alcoholic fermentation of the juice of ripe grapes, fruits, berries or vegetables grown and produced in Mississippi; provided that bulk, concentrated or fortified wines used for blending may be produced without this state and used in producing native wines. The department shall adopt and promulgate rules and regulations to permit a producer to import such bulk and/or fortified wines into this state for use in blending with

native wines without payment of any excise tax that would otherwise accrue thereon.

(q) "Native winery" means any place or establishment within the State of Mississippi where native wine is produced, in whole or in part, for sale.

(r) "Bed and breakfast inn" means an establishment within a municipality where in consideration of payment, breakfast and lodging are habitually furnished to travelers and wherein are located not less than eight (8) and not more than nineteen (19) adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the minimum number of sleeping rooms shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a bed and breakfast inn under this chapter unless on the date of the initial application for a license under this chapter more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

(s) "Board" shall refer to the Board of Tax Appeals of the State of Mississippi.

(t) "Spa facility" means an establishment within a municipality or qualified resort area and owned by a hotel where, in consideration of payment, patrons receive from licensed professionals a variety of private personal care treatments such as massages, facials, waxes, exfoliation and hairstyling.

(u) "Art studio or gallery" means an establishment within a municipality or qualified resort area that is in the sole business of allowing patrons to view and/or purchase paintings and other creative artwork.

(v) "Cooking school" means an establishment within a municipality or qualified resort area and owned by a nationally recognized company that offers an established culinary education curriculum and program where, in consideration of payment, patrons are given scheduled professional group instruction on culinary techniques. For purposes of this paragraph, the definition of cooking school shall not include schools or classes offered by grocery stores, convenience stores or drugstores.

(w) "Campus" means property owned by a public school district, community or junior college, college or university in this state where educational courses are taught, school functions are held, tests and examinations are administered or academic course credits are awarded; however, the term shall not include any "restaurant" or "hotel" that is located on property owned by a community or junior college, college or university in this state, and is operated by a third party who receives all revenue generated from food and alcoholic beverage sales.

SECTION 38. Section 67-1-18, Mississippi Code of 1972, is amended as follows:

67-1-18. (1) Any alcoholic beverage, light wine, beer, light spirit product or raw material seized under the authority of

this chapter, Chapter 3 of Title 67, or Chapter 31 of Title 97, Mississippi Code of 1972, shall be submitted to the custody of the Mississippi Department of Revenue for disposition.

(2) (a) Except as otherwise provided in this paragraph, the department shall not dispose of any alcoholic beverage, light wine, beer, light spirit product or raw material without first providing reasonable notice to all individuals having an interest in the property and an opportunity for them to appear and establish their right or claim to the property. If no hearing is requested by the passage of the appropriate deadline, the department shall require the alcoholic beverages, light wine, beer, light spirit products or raw materials to be sold for the benefit of the state or destroyed.

(b) The provisions of paragraph (a) of this subsection shall not apply in cases in which the owner or possessor of the alcoholic beverage, light wine, beer, light spirit product or raw material is convicted of possession of alcoholic beverages, beer, light spirit products or light wine in a location in which such possession is prohibited by law, or convicted of a violation of Section 67-1-81(2) or 67-3-70. In such cases, the alcoholic beverage, light wine, beer, light spirit product or raw materials seized in connection with the violation may be disposed of in the manner prescribed by the department.

(3) (a) If the department orders the property, other than alcoholic beverages, sold, then the property shall be sold to the

highest bidder, the bidder being any person, firm or government agency. The offer for sale shall be made to not less than three (3) qualified prospective buyers, by mailing them an invitation to bid, which shall describe the property, terms of sale, method of delivery, manner of bidding and fixing a time of not more than fifteen (15) days from the date of invitation for opening of bids received by the department.

(b) All bids and payment shall be made in the manner as prescribed by the department. Bids, after opening, shall be subject to public inspection.

(4) If the department orders the sale of seized alcoholic beverages, it may place the alcoholic beverages in the state inventory to be sold to authorized retailers in the same manner as other alcoholic beverages in the state inventory are sold.

(5) Any appeal from a seizure and disposal made under this section shall be made pursuant to Section 67-1-72.

SECTION 39. Section 67-1-51, Mississippi Code of 1972, is amended as follows:

67-1-51. (1) Permits which may be issued by the department shall be as follows:

(a) **Manufacturer's permit.** A manufacturer's permit shall permit the manufacture, importation in bulk, bottling and storage of alcoholic liquor and its distribution and sale to manufacturers holding permits under this chapter in this state and

to persons outside the state who are authorized by law to purchase the same, and to sell exclusively to the department.

Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

Class 2. Wine manufacturer's permit, which shall authorize the holder thereof to manufacture, import in bulk, bottle and store wine or vinous liquor.

Class 3. Native wine producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native wines.

(b) **Package retailer's permit.** Except as otherwise provided in this paragraph and Section 67-1-52, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines, not to be consumed on the premises where sold. Alcoholic beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. A package retailer's permit, with prior approval from the department, shall authorize the holder thereof to sample new

products furnished by a manufacturer's representative or his employees at the permitted place of business so long as the sampling otherwise complies with this chapter and applicable department regulations. Such samples may not be provided to customers at the permitted place of business. In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcoholic beverages. Nonalcoholic beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) **On-premises retailer's permit.** Except as otherwise provided in subsection (5) of this section, an on-premises retailer's permit shall authorize the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only; however, a patron of the permit holder may remove one (1) bottle of wine from the licensed premises if: (i) the patron consumed a portion of the bottle of wine in the course of consuming a meal purchased on the licensed premises; (ii) the permit holder securely reseals the bottle; (iii) the bottle is placed in a bag that is secured in a manner so that it will be visibly apparent if the bag is opened; and (iv) a dated receipt for the wine and the meal is available. Such a permit shall be issued only to qualified hotels, restaurants and clubs, and to common carriers with adequate facilities for serving passengers.

In resort areas, whether inside or outside of a municipality, the department, in its discretion, may issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales. If an on-premises retailer's permit is applied for by a common carrier operating solely in the water, such common carrier must, along with all other qualifications for a permit, (i) be certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers and (ii) operate primarily in the waters within the State of Mississippi which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi and/or on the Mississippi River or navigable waters within any county bordering on the Mississippi River.

(d) **Solicitor's permit.** A solicitor's permit shall authorize the holder thereof to act as salesman for a manufacturer or wholesaler holding a proper permit, to solicit on behalf of his employer orders for alcoholic beverages, and to otherwise promote his employer's products in a legitimate manner. Such a permit shall authorize the representation of and employment by one (1) principal only. However, the permittee may also, in the

discretion of the department, be issued additional permits to represent other principals. No such permittee shall buy or sell alcoholic beverages for his own account, and no such beverage shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

(e) **Native wine retailer's permit.** Except as otherwise provided in subsection (5) of this section, a native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native winery.

(f) **Temporary retailer's permit.** Except as otherwise provided in subsection (5) of this section, a temporary retailer's permit shall permit the purchase and resale of alcoholic beverages, including native wines, during legal hours on the premises described in the temporary permit only.

Temporary retailer's permits shall be of the following classes:

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit

only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in paragraph (c) of this subsection. A Class 2 permit may be issued only to applicants demonstrating to the department, by a statement signed under the penalty of perjury, that they meet the qualifications of Sections 67-1-5(l), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The department, following a preliminary review of the

statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcoholic beverages directly from the department or, with approval of the department, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or statement, the applicant shall never again be eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the

Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (l) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine, light spirit product or beer.

(g) **Caterer's permit.** A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcoholic beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcoholic beverages on the premises of

the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's permit shall not authorize the service of alcoholic beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be required for the separate location. All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and, except as otherwise provided in subsection (5) of this section, such sales may be made only for consumption at the catered location. The location being catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale, distribution and possession of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the

conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcoholic beverages from the department or from importers, wineries and distillers of alcoholic beverages for professional research.

(i) **Alcohol processing permit.** An alcohol processing permit shall authorize the holder thereof to purchase, transport and possess alcoholic beverages for the exclusive use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient. An alcohol processing permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in the business of cooking, processing or manufacturing products which contain alcoholic beverages. The amounts of alcoholic beverages allowed under an alcohol processing permit shall be set by the department.

(j) **Hospitality cart permit.** A hospitality cart permit shall authorize the sale of alcoholic beverages from a mobile cart on a golf course that is the holder of an on-premises retailer's

permit. The alcoholic beverages sold from the cart must be consumed within the boundaries of the golf course.

(k) **Special service permit.** A special service permit shall authorize the holder to sell commercially sealed alcoholic beverages to the operator of a commercial or private aircraft for en route consumption only by passengers. A special service permit shall be issued only to a fixed-base operator who contracts with an airport facility to provide fueling and other associated services to commercial and private aircraft.

(l) **Merchant permit.** Except as otherwise provided in subsection (5) of this section, a merchant permit shall be issued only to the owner of a spa facility, an art studio or gallery, or a cooking school, and shall authorize the holder to serve complimentary by the glass wine only, including native wine, at the holder's spa facility, art studio or gallery, or cooking school. A merchant permit holder shall obtain all wine from the holder of a package retailer's permit.

(m) **Temporary alcoholic beverages charitable auction permit.** A temporary permit, not to exceed five (5) days, may be issued to a qualifying charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986. The permit shall authorize the holder to sell alcoholic beverages for the limited purpose of raising funds for the organization during a live or silent auction that is conducted by the organization and that meets the following

requirements: (i) the auction is conducted in an area of the state where the sale of alcoholic beverages is authorized; (ii) if the auction is conducted on the premises of an on-premises retailer's permit holder, then the alcoholic beverages to be auctioned must be stored separately from the alcoholic beverages sold, stored or served on the premises, must be removed from the premises immediately following the auction, and may not be consumed on the premises; (iii) the permit holder may not conduct more than two (2) auctions during a calendar year; (iv) the permit holder may not pay a commission or promotional fee to any person to arrange or conduct the auction.

(n) **Event venue retailer's permit.** An event venue retailer's permit shall authorize the holder thereof to purchase and resell alcoholic beverages, including native wines, for consumption on the premises during legal hours during events held on the licensed premises if food is being served at the event by a caterer who is not affiliated with or related to the permittee. The caterer must serve at least three (3) entrees. The permit may only be issued for venues that can accommodate two hundred (200) persons or more. The number of persons a venue may accommodate shall be determined by the local fire department and such determination shall be provided in writing and submitted along with all other documents required to be provided for an on-premises retailer's permit. The permittee must derive the majority of its revenue from event-related fees, including, but

not limited to, admission fees or ticket sales for live entertainment in the building. "Event-related fees" do not include alcohol, beer, light spirit product or light wine sales or any fee which may be construed to cover the cost of alcohol, beer, light spirit product or light wine. This determination shall be made on a per event basis. An event may not last longer than two (2) consecutive days per week.

(o) **Temporary theatre permit.** A temporary theatre permit, not to exceed five (5) days, may be issued to a charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code and owns or operates a theatre facility that features plays and other theatrical performances and productions. Except as otherwise provided in subsection (5) of this section, the permit shall authorize the holder to sell alcoholic beverages, including native wines, to patrons of the theatre during performances and productions at the theatre facility for consumption during such performances and productions on the premises of the facility described in the permit. A temporary theatre permit holder shall obtain all alcoholic beverages from package retailers located in the county in which the permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary theatre permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and

consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages.

(p) **Charter ship operator's permit.** Subject to the provisions of this paragraph (p), a charter ship operator's permit shall authorize the holder thereof and its employees to serve, monitor, store and otherwise control the serving and availability of alcoholic beverages to customers of the permit holder during private charters under contract provided by the permit holder. A charter ship operator's permit shall authorize such action by the permit holder and its employees only as to alcoholic beverages brought onto the permit holder's ship by customers of the permit holder as part of such a private charter. All such alcoholic beverages must be removed from the charter ship at the conclusion of each private charter. A charter ship operator's permit shall not authorize the permit holder to sell, charge for or otherwise supply alcoholic beverages to customers, except as authorized in this paragraph (p). For the purposes of this paragraph (p), "charter ship operator" means a common carrier that (i) is certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers, (ii) operates only in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, and (iii) provides charters under contract for tours and trips in such waters.

(q) **Distillery retailer's permit.** The holder of a Class 1 manufacturer's permit may obtain a distillery retailer's permit. A distillery retailer's permit shall authorize the holder thereof to sell at retail alcoholic beverages by the sealed and unopened bottle from a retail location at the distillery for off-premises consumption. The holder may only sell product manufactured by the manufacturer at the distillery described in the permit. The holder shall not sell at retail more than ten percent (10%) of the alcoholic beverages produced annually at its distillery. The holder shall not make retail sales of more than two and twenty-five one-hundredths (2.25) liters, in the aggregate, of the alcoholic beverages produced at its distillery to any one (1) individual for consumption off the premises of the distillery within a twenty-four-hour period. The hours of sale shall be the same as those hours for package retailers under this chapter. The holder of a distillery retailer's permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse; however, if the holder does not purchase the alcoholic beverages from the department's liquor distribution warehouse, the holder shall pay to the department all taxes, fees and surcharges on the alcoholic beverages that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue. In addition to alcoholic beverages, the holder of a distillery retailer's permit may sell

at retail promotional products from the same retail location, including shirts, hats, glasses, and other promotional products customarily sold by alcoholic beverage manufacturers.

(2) Except as otherwise provided in subsection (4) of this section, retail permittees may hold more than one (1) retail permit, at the discretion of the department.

(3) Except as otherwise provided in this subsection, no authority shall be granted to any person to manufacture, sell or store for sale any intoxicating liquor as specified in this chapter within four hundred (400) feet of any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, such minimum distance shall be not less than one hundred (100) feet.

A church or funeral home may waive the distance restrictions imposed in this subsection in favor of allowing issuance by the department of a permit, pursuant to subsection (1) of this section, to authorize activity relating to the manufacturing, sale or storage of alcoholic beverages which would otherwise be prohibited under the minimum distance criterion. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed

and breakfast inn listed in the National Register of Historic Places or to the sale or storage of alcoholic beverages in a historic district that is listed in the National Register of Historic Places, is a qualified resort area and is located in a municipality having a population greater than one hundred thousand (100,000) according to the latest federal decennial census.

(4) No person, either individually or as a member of a firm, partnership, limited liability company or association, or as a stockholder, officer or director in a corporation, shall own or control any interest in more than one (1) package retailer's permit, nor shall such person's spouse, if living in the same household of such person, any relative of such person, if living in the same household of such person, or any other person living in the same household with such person own any interest in any other package retailer's permit.

(5) (a) In addition to any other authority granted under this section, the holder of a permit issued under subsection (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may sell or otherwise provide alcoholic beverages and/or wine to a patron of the permit holder in the manner authorized in the permit and the patron may remove an open glass, cup or other container of the alcoholic beverage and/or wine from the licensed premises and may possess and consume the alcoholic beverage or wine outside of the licensed premises if: (i) the licensed premises is located within a leisure and recreation district created under Section

67-1-101 and (ii) the patron remains within the boundaries of the leisure and recreation district while in possession of the alcoholic beverage or wine.

(b) Nothing in this subsection shall be construed to allow a person to bring any alcoholic beverages into a permitted premises except to the extent otherwise authorized by this chapter.

SECTION 40. Section 67-1-72, Mississippi Code of 1972, is amended as follows:

67-1-72. (1) Except as otherwise provided in this chapter, any applicant or holder of a permit issued under this chapter which is aggrieved by an action of the Department of Revenue to deny his application for a permit, to deny the renewal of his permit or to revoke or suspend his permit shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of any permit issued under this chapter may waive his right to notice

and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to issue or renew a permit due to an incomplete application or due to the failure of the applicant to pay the annual privilege taxes and fees provided by Section 27-71-5 and/or the failure of the applicant to post or deposit the bond, cash or securities as required by Section 27-71-21 shall not constitute a denial for purposes of this subsection.

(2) Any applicant for approval as a manager of an establishment operating under a permit issued under this chapter or who holds the designation of an approved manager of an establishment operating under a permit issued under this chapter and who is aggrieved by an action of the Department of Revenue to deny his application for approval as a manager or to revoke or suspend his designation as an approved manager shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of

an approved manager designation may waive his right to notice and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to consider an application for approval of an applicant as a manager due to an incomplete application shall not constitute a denial of the application for purposes of this subsection.

(3) Any applicant for approval of an area or locality as a qualified resort area under this chapter who is aggrieved by the decision of the Department of Revenue to deny the qualified resort area as requested and any county or municipality wherein the proposed qualified resort area is located may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved applicant or by the affected county or municipality with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the Department of Revenue to deny the qualified resort area. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection. The inability of the Department of Revenue to consider an application for the approval of an area or locality as a qualified resort area due to an incomplete

application shall not constitute a denial of that application for purposes of this subsection.

(4) Any person, including any county or municipality in which the qualified resort area is located, who is aggrieved by the decision of the Department of Revenue to revoke the approval of an area or locality as a qualified resort area may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the department to revoke approval of the qualified resort area. At the discretion of the Department of Revenue, in addition to any other notice to be provided under this subsection, the department may provide notice of its decision to revoke approval of the qualified resort area by publication in the same manner as provided by regulation when approval of a qualified resort area is sought. In regard to such publication, the fifteen-day period provided herein will begin on the date that notice is first published. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection.

(5) Any person objecting to an application for the issuance or transfer of a permit, other than a temporary retailer's permit, issued under this chapter and who timely requests in writing a hearing on his objection shall be given a hearing before the Board of Tax Appeals unless the permit is denied by the Department of Revenue and an appeal is not taken by the applicant to the Board of Tax Appeals from that denial or the applicant withdraws his application. Any written request for a hearing on an objection must be filed with the Department of Revenue within fifteen (15) days from the first date of publication of the notice of such application under Section 67-1-53. If the department determines that the permit should be denied, notice will be provided to the applicant as set out in subsection (1) of this section, and if the applicant timely requests a hearing on the denial as provided by this subsection (5), the department will advise the Executive Director of the Board of Tax Appeals and the applicant of the written request for a hearing on an objection to the permit. The hearing on the objection to the permit and the hearing on the appeal by the applicant from the denial of the department of the application shall be consolidated and heard by the Board of Tax Appeals at the same time. If the department determines that the permit should be issued, the department will advise the applicant and the Executive Director of the Board of Tax Appeals of the timely written request for a hearing on an objection to the application and a hearing will be set before the Board of Tax

Appeals on this objection. If prior to the hearing, either the person requesting the hearing withdraws his request or the applicant withdraws his application, the hearing will be cancelled and the objection proceedings before the Board of Tax Appeals on the application will be dismissed as moot. In the case of such withdrawals, the Board of Tax Appeals is authorized to assess to either or both parties any costs incurred by it prior to such withdrawal. The Department of Revenue retains authority to issue the permit to the applicant where the person objecting to the application withdraws his request for a hearing.

(6) Any person objecting to an application for approval by the Department of Revenue of a area or locality as a qualified resort area under this chapter and who timely requests in writing a hearing on his objection shall be given a hearing before the Board of Tax Appeals unless approval of the application is denied by the Department of Revenue and an appeal is not taken by the applicant or the county or municipality in which the proposed qualified resort area is located to the Board of Tax Appeals from that denial or the applicant withdraws his application. Any written request for a hearing on an objection must be filed with the Department of Revenue within fifteen (15) days from the first date of publication of the notice of such application as provided by regulation. If the department determines that the application for approval of the proposed area or locality as a qualified resort area should be denied, the department will proceed with

denial of such application as set out in subsection (3) of this section, and if the applicant or the county or municipality in which the proposed qualified resort area is located timely requests a hearing on the denial as provided by subsection (3) of this section, the department will advise the Executive Director of the Board of Tax Appeals and the applicant of the written request for a hearing on an objection to the application. The hearing on the objection to approval of the proposed qualified resort area and the hearing on the appeal from the denial of the department of the application for such approval shall be consolidated and heard by the Board of Tax Appeals at the same time. If the department determines that the proposed qualified resort area should be approved, the department will advise the applicant and the Executive Director of the Board of Tax Appeals of the timely written request for a hearing on an objection to the application and a hearing will be set before the Board of Tax Appeals on this objection. If prior to the hearing, either the person requesting the hearing withdraws his request or the applicant withdraws his application, the hearing will be cancelled and the objection proceedings before the Board of Tax Appeals on the application will be dismissed as moot. In the case of such withdrawals, the Board of Tax Appeals is authorized to assess to either or both parties any costs incurred by it prior to such withdrawal. The Department of Revenue retains authority to approve the proposed

area or locality as a qualified resort area where the person objecting to the application withdraws his request for a hearing.

(7) Any person having an interest in any alcoholic beverages, light wine, beer, light spirit products or raw materials which the Department of Revenue intends to dispose of under Section 67-1-18 shall be given reasonable notice of this proposed disposal, and upon such notice, this person may request a hearing before the Board of Tax Appeals to establish his right or claim to this property. This request for a hearing shall be filed with the Board of Tax Appeals, with a copy sent to the Department of Revenue, within fifteen (15) days from the date of receipt of the notice provided above by the person filing the request. If a request is not received by the Board of Tax Appeals within this fifteen-day period, the department may order the property disposed of in accordance with Section 67-1-18.

(8) Upon receipt of a written request for hearing or appeal as set out above, the executive director shall schedule a hearing before the Board of Tax Appeals on this request or appeal. A notice of the hearing shall be mailed to all persons or entities having an interest in the matter being heard which shall always include the person or entity filing the request or appeal for which the hearing is being set, the applicant or holder of any permit, approved manager status or qualified resort area status in issue, any person who filed a written request for a hearing on an objection to any application in issue and the Department of

Revenue. This notice shall provide the date, time and location of the hearing. Mailing to the attorney representing a person or entity in the matter being heard shall be the same as mailing to the person or entity the attorney represents. Failure of the person or entity on whose request or appeal the matter was set for hearing to appear personally or through his designated representative at the hearing shall constitute an involuntary withdrawal of his request or appeal. Upon such withdrawal, the Board of Tax Appeals shall note on the record the failure of the person or entity to appear at the hearing and shall dismiss the request or appeal and remand the matter back to the Department of Revenue for appropriate action.

(9) At any hearing before the Board of Tax Appeals on an appeal or hearing request as set out above, two (2) members of the Board of Tax Appeals shall constitute a quorum. At the hearing, the Board of Tax Appeals shall try the issues presented according to law and the facts and pursuant to any guidelines established by regulation. The rules of evidence shall be relaxed at the hearing and the hearing shall be recorded by a court reporter. After reaching a decision on the issues presented, the Board of Tax Appeals shall enter an order setting forth its findings and decision in the matter. A copy of the order of the Board of Tax Appeals shall be mailed to the person or entity filing the request or appeal which was heard, the applicant or holder of any permit, approved manager status or qualified resort area status in issue,

any person who filed a written request for a hearing on an objection to any application in issue and the Department of Revenue to notify them of the findings and decision of the Board of Tax Appeals.

SECTION 41. Section 67-7-3, Mississippi Code of 1972, is amended as follows:

67-7-3. The legislative purpose of this chapter is to provide a structure for the business relations between a wholesaler and a supplier of light wine, light spirit product or beer. Regulation in this area is considered necessary for the following reasons:

(a) To maintain stability and healthy competition in the light wine, light spirit product and beer industry in this state.

(b) To promote and maintain a sound, stable and viable system of distribution of light wine, light spirit product and beer to the public.

(c) To provide for the private settlement of disputes between wholesalers and suppliers of light wine, light spirit product or beer as an alternative to civil litigation which consumes the time and resources of the parties and the judicial system.

(d) To promote the public health, safety and welfare.

SECTION 42. Section 67-7-5, Mississippi Code of 1972, is amended as follows:

67-7-5. As used in this chapter, the following words or phrases, or the plural thereof, whenever they appear in this chapter, unless the context clearly requires otherwise, shall have the meaning ascribed to them in this section.

(a) "Agreement" means any agreement between a wholesaler and a supplier, whether oral or written, whereby a wholesaler is granted the right to purchase and sell a brand or brands of light wine, light spirit product or beer sold by a supplier.

(b) "Ancillary business" means a business owned by the wholesaler, by a substantial stockholder of a wholesaler, or by a substantial partner of a wholesaler, the primary business of which is directly related to the transporting, storing or marketing of the brand or brands of light wine, light spirit product or beer of a supplier with whom the wholesaler has an agreement; or a business owned by a wholesaler, a substantial stockholder of a wholesaler.

(c) "Commission" or "department" means the Department of Revenue of the State of Mississippi.

(d) "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

(e) "Designated member" means the spouse, child, grandchild, parent, brother or sister of a deceased individual who owned an interest, including a controlling interest, in a wholesaler, or any person who inherits under the deceased

individual's will, or under the laws of intestate succession of this state; or any person who or entity which has otherwise, through a valid testamentary device by the deceased individual, succeeded the deceased individual in the wholesaler's business, or has succeeded to the deceased individual's ownership interest in the wholesaler pursuant to a written contract or instrument which has been previously approved by the supplier; "designated member" includes the appointed and qualified personal representative and the testamentary trustee of a deceased individual owning an ownership interest in a wholesaler, and it includes the person appointed by a court as the guardian or conservator of the property of an incapacitated individual owning an ownership interest in a wholesaler.

(f) "Establish" means to adjust or regulate, to provide for and uphold.

(g) "Good faith" means honesty in fact and observance of reasonable commercial standards of fair dealing in the trade, as defined in and interpreted under the Uniform Commercial Code.

(h) "Reasonable qualifications" means the standard of the reasonable criteria established and consistently used by the respective supplier for similarly situated wholesalers that entered into, continued or renewed an agreement with the supplier during a period of twenty-four (24) months before the proposed transfer of the wholesaler's business, or for similarly situated wholesalers who have changed managers or designated managers,

under the agreement, during a period of twenty-four (24) months before the proposed change in the manager or successor manager of the wholesaler's business.

(i) "Retaliatory action" means the refusal to continue an agreement, or a material reduction in the quality of service or quantity of products available to a wholesaler under an agreement, which refusal or reduction is not made in good faith.

(j) "Sales territory" means a primary area of sales responsibility for the brand or brands of light wine, light spirit product or beer sold by a supplier as designated by an agreement.

(k) "Substantial stockholder or substantial partner" means a stockholder of or partner in the wholesaler who owns an interest of ten percent (10%) or more of the partnership or of the capital stock of a corporate wholesaler.

(l) "Successor" means a person who replaces a supplier with regard to the right to manufacture, sell, distribute or import a brand or brands of light wine, light spirit product or beer.

(m) "Supplier" means a manufacturer or importer of light wine, light spirit product or beer as regulated by the department under Sections 67-3-1 through 67-3-73.

(n) "Transfer of wholesaler's business" means the voluntary sale, assignment or other transfer of ten percent (10%) or more of control of the business or all or substantially all of the assets of the wholesaler, or ten percent (10%) or more of

control of the capital stocks of the wholesaler, including without limitation the sale or other transfer of capital stock or assets by merger, consolidation or dissolution, or of the capital stock of the parent corporation, or of the capital stock or beneficial ownership of any other entity owning or controlling the wholesaler.

(o) "Wholesaler" means a wholesaler of light wine, light spirit product or beer as regulated by the department under Sections 67-3-1 through 67-3-73.

(p) "Similarly situated wholesalers" means wholesalers of a supplier that are of a generally comparable size and operate in markets in Mississippi and adjoining states with similar demographic characteristics, including population size, density, distribution and vital statistics, as well as reasonably similar economic and geographic conditions.

(q) "Light wine, light spirit product and/or beer" has the meaning ascribed to such terms in Section 67-3- * * *3.

SECTION 43. Section 67-7-7, Mississippi Code of 1972, is amended as follows:

67-7-7. (1) A supplier shall not do the following:

(a) Fail to provide each wholesaler of the supplier's brand or brands with a written agreement which contains in total the supplier's agreement with each wholesaler, and designates a specific sales territory. Any agreement which is in existence on April 7, 1995, shall be renewed consistent with this chapter,

provided that this chapter may be incorporated by reference in the agreement. Nothing contained herein shall prevent a supplier from appointing, one (1) time for a period not to exceed ninety (90) days, a wholesaler to service temporarily a sales territory not designated to another wholesaler, until such time as a wholesaler is appointed by the supplier; and such wholesaler who is designated to service the sales territory during this period of temporary service shall not be in violation of the chapter, and, with respect to the temporary service territory, shall not have any of the rights provided under Sections 67-7-11 and 67-7-15.

(b) Fix, maintain or establish the price at which a wholesaler shall sell any light wine, light spirit product or beer.

(c) Enter into an additional agreement with any other wholesaler for, or to sell to any other wholesaler, the same brand or brands of light wine, light spirit product or beer in the same territory or any portion thereof, or to sell directly to any retailer in this state.

(d) Require any wholesaler to accept delivery of any light wine, light spirit product or beer or other commodity which has not been ordered by the wholesaler, except that a supplier may impose reasonable inventory requirements upon a wholesaler if the requirements are made in good faith and are generally applied to other similarly situated wholesalers who have an agreement with the supplier.

(e) Require any wholesaler to accept delivery of any light wine, light spirit product or beer or other commodity ordered by a wholesaler if the order was properly cancelled by the wholesaler in accordance with the supplier's procedure.

(f) Require any wholesaler to do any illegal act or to violate any law or regulation by threatening to amend, modify, cancel, terminate or refuse to renew any agreement existing between the supplier and wholesaler.

(g) Require a wholesaler to assent to any condition, stipulation or provision limiting the wholesaler's right to sell the brand or brands of light wine, light spirit product or beer of any other supplier unless the acquisition of the brand or brands of another supplier would materially impair or adversely affect the wholesaler's quality of service, sales or ability to compete effectively in representing the brand or brands of the supplier presently being sold by the wholesaler, except that in any action challenging a supplier's position, the supplier shall have the burden of providing that such acquisition of such other brand or brands would have such effect.

(h) Require a wholesaler to purchase one or more brands of light wine, light spirit product or beer products in order for the wholesaler to purchase another brand or brands of light wine, light spirit product or beer for any reason, except that a wholesaler that has agreed to distribute a brand or brands before

April 7, 1995, shall continue to distribute the brand or brands in conformance with this chapter.

(i) Require a wholesaler to submit audited profit and loss statements, balance sheets or financial records as a condition of renewal or continuation of an agreement, except that a supplier may require reasonable proof of a wholesaler's financial condition prior to extending credit terms to a wholesaler.

(j) Withhold delivery of light wine, light spirit product or beer ordered by wholesaler, or change a wholesaler's quota of a brand or brands if the withholding or change is not made in good faith.

(k) Require a wholesaler by any means directly to participate in or contribute to any local or national advertising fund controlled directly or indirectly by a supplier.

(l) Take any retaliatory action against a wholesaler that files a complaint in good faith regarding an alleged violation by the supplier of federal, state or local law or an administrative rule as a result of that complaint.

(m) Require or prohibit any change in the manager or successor manager of any wholesaler who has been approved by the supplier as of or after April 7, 1995, unless the supplier acts in good faith. Should a wholesaler change an approved manager or successor manager, a supplier shall not require or prohibit the change unless the person selected by the wholesaler fails to meet

the nondiscriminatory, material and reasonable standards and qualifications for managers consistently applied to similarly situated wholesalers by the supplier, except that, in any action challenging a supplier's decision, the supplier shall have the burden of proving that such person fails to meet such standards and qualifications.

(n) Upon written notice of intent to transfer the wholesaler's business, interfere with, prevent or unreasonably delay (not to exceed thirty (30) days) the transfer of the wholesaler's business if the proposed transferee is a designated member.

(o) Upon written notice of intent to transfer the wholesaler's business other than to a designated member, withhold consent to or approval of, or unreasonably delay (not to exceed thirty (30) days after receipt of all material information reasonably requested) a response to a request by the wholesaler for any transfer of a wholesaler's business if the proposed transferee meets the nondiscriminatory material and reasonable qualifications and standards required by the supplier for similarly situated wholesalers.

(p) Restrict or inhibit the right of free association among wholesalers for any lawful purpose.

(q) Threaten to cancel or withhold credit, or to reduce the time period normally given the wholesaler to make payment on a delivery from the supplier as a means of compelling the wholesaler

to meet certain standards of performance in any area of business not directly related to credit.

SECTION 44. Section 67-7-9, Mississippi Code of 1972, is amended as follows:

67-7-9. A wholesaler shall not do any of the following:

(a) Fail to devote such efforts and resources to the sale and distribution of all the supplier's brands of light wine, light spirit product or beer which the wholesaler has been granted the right to sell or distribute as are required in the wholesaler's agreement with the supplier.

(b) Sell or deliver light wine, light spirit product or beer to a retail licensee located outside the sales territory designated to the wholesaler by the supplier of a particular brand or brands of light wine, light spirit product or beer, except that during periods of temporary service interruptions impacting a particular sales territory, a supplier may appoint another wholesaler to service the sales territory during the period of temporary service interruption. A wholesaler who is designated to service the impacted sales territory during the period of temporary service interruption shall not be in violation of this chapter and shall not have any of the rights provided under Sections 67-7-11 and 67-7-15 with respect to the temporary service territory.

(c) Transfer the wholesaler's business without giving the supplier written notice of intent to transfer the wholesaler's

business and, where required by this chapter, receiving the supplier's written approval for the proposed transfer, except that the consent or approval of the supplier shall not be required of any transfer of the wholesaler's business to a designated member, or of any transfer of less than ten percent (10%) of the wholesaler's business unless such transfer results in a change in control. The wholesaler shall give the supplier written notice of any change in ownership of the wholesaler.

SECTION 45. Section 67-7-11, Mississippi Code of 1972, is amended as follows:

67-7-11. (1) Except as otherwise provided for in this chapter, a supplier shall not amend or modify an agreement; cause a wholesaler to resign from an agreement; or cancel, terminate, fail to renew or refuse to continue under an agreement, unless the supplier has complied with all of the following:

(a) Has satisfied the applicable notice requirements of this section.

(b) Has acted in good faith.

(c) Has good cause for the amendment, modification, cancellation, termination, nonrenewal, discontinuance or forced resignation.

(2) In any action challenging such amendment, modification, termination, cancellation, nonrenewal or discontinuance, the supplier shall have the burden of proving that it has acted in good faith, that the notice requirements under this section have

been complied with, and that there was good cause for the amendment, modification, termination, cancellation, nonrenewal or discontinuance.

(3) Except as otherwise provided in this section, and in addition to the time limits set forth in subsection (4)(d) of this section, the supplier shall furnish written notice of the amendment, modification, termination, cancellation, nonrenewal or discontinuance of an agreement to the wholesaler not less than thirty (30) days before the effective date of the amendment, modification, termination, cancellation, nonrenewal or discontinuance. The notice shall be by certified mail and shall contain all of the following:

(a) A statement of intention to amend, modify, terminate, cancel, nonrenew or discontinue the agreement.

(b) A statement of the reason for the amendment, modification, termination, cancellation, nonrenewal or discontinuance.

(c) The date on which the amendment, modification, termination, cancellation, nonrenewal or discontinuance takes effect.

(4) Good cause shall exist for the purposes of a termination, cancellation, nonrenewal or discontinuance under subsection (1)(c) of this section when all of the following occur:

(a) There is a failure by the wholesaler to comply with a provision of the agreement which is both reasonable and of

material significance to the business relationship between the wholesaler and the supplier.

(b) The supplier first acquired knowledge of the failure described in subparagraph (a) not more than twenty-four (24) months before the date notification was given pursuant to subsection (3) of this section.

(c) The wholesaler was given notice by the supplier of failure to comply with this agreement.

(d) The wholesaler has been afforded thirty (30) days in which to submit a plan of corrective action to comply with the agreement and an additional ninety (90) days to cure such noncompliance in accordance with the plan.

(5) Notwithstanding subsections (1) and (3) of this section, a supplier may terminate, cancel, fail to renew or discontinue an agreement immediately upon written notice given in the manner and containing the information required by subsection (3)(a), (b) and (c) of this section if any of the following occur:

(a) Insolvency of the wholesaler, the filing of any petition by or against the wholesaler under any bankruptcy or receivership law or the assignment for the benefit of creditors or dissolution or liquidation of the wholesaler which materially affects the wholesaler's ability to remain in business.

(b) Revocation or suspension of the wholesaler's state or federal license by the appropriate regulatory agency whereby

the wholesaler cannot service the wholesaler's sales territory for more than thirty-one (31) days.

(c) The wholesaler, or a partner or an individual who owns ten percent (10%) or more of the partnership or stock of a corporate wholesaler, has been convicted of a felony under the United States Code or the laws of any state which reasonably may adversely affect the good will or interest of the wholesaler or supplier. However, an existing stockholder or stockholders, or partner or partners, or a designated member or members, shall have, subject to the provisions of this chapter, the right to purchase the partnership interest or the stock of the offending partner or stockholder prior to the conviction of the offending partner or stockholder, and if the sale is completed prior to conviction the provisions of this subparagraph shall not apply.

(d) There was fraudulent conduct relating to a material matter on the part of the wholesaler in dealings with the supplier or its product, except that the supplier shall have the burden of proving fraudulent conduct relating to a material matter on the part of the wholesaler in any legal action challenging such termination.

(e) The wholesaler failed to confine to the designated sales territory its sales of a brand or brands to retailers except that this subsection does not apply if there is a dispute between two (2) or more wholesalers as to the boundaries of the assigned territory, and the boundaries cannot be determined by a reading of

the description contained in the agreements between the supplier and the wholesalers.

(f) A wholesaler has failed to pay for light wine, light spirit product or beer ordered and delivered in accordance with established terms and the wholesaler fails to make full payment within five (5) business days after receipt of written notice of the delinquency and demand for immediate payment from the supplier.

(g) A wholesaler intentionally has made a transfer of wholesaler's business, other than a transfer to a designated member without prior written notice to the supplier.

(h) A wholesaler intentionally has made a transfer of wholesaler's business, other than a transfer to a designated member, although the wholesaler has prior to said transfer received from supplier a timely notice of disapproval of said transfer in accordance with this chapter.

(i) The wholesaler intentionally ceases to carry on business with respect to any of supplier's brand or brands previously serviced by wholesaler in its territory designated by the supplier, unless such cessation is due to force majeure or to labor dispute and the wholesaler has made good faith efforts to overcome such events. Provided, however, this shall affect only that brand or brands with respect to which the wholesaler ceased to carry on business.

(6) Notwithstanding subsections (1), (3) and (5) of this section, a supplier may terminate, cancel, not renew or discontinue an agreement upon not less than thirty (30) days prior written notice if the supplier discontinues production or discontinues distribution in this state of all the brands sold by the supplier to the wholesaler, except that nothing in this section shall prohibit a supplier from: (a) upon not less than thirty (30) days notice, discontinuing the distribution of any particular brand or package of light wine, light spirit product or beer; or (b) conducting test marketing of a new brand of light wine, light spirit product or beer which is not currently being sold in this state, except that the supplier has notified the * * * department in writing of its plans to test market, which notice shall describe the market area in which the test shall be conducted; the name or names of the wholesaler or wholesalers who will be selling the light wine, light spirit product or beer; the name or names of the brand of light wine, light spirit product or beer being tested; and the period of time, not to exceed eighteen (18) months, during which the testing will take place.

SECTION 46. Section 67-9-1, Mississippi Code of 1972, is amended as follows:

67-9-1. Notwithstanding the provisions of any section of Title 27 or 67, Mississippi Code of 1972, it shall be lawful for any person holding an alcohol processing permit to transport and possess alcoholic beverages, light wine, light spirit product and

beer, in any part of the state, for his or her use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient, in amounts as limited by the Alcoholic Beverage Control Division of the * * * Department of Revenue. The authority to transport and possess alcoholic beverages, light wine, light spirit product and beer under this section exists regardless of whether (a) the county or municipality in which the transportation or possession takes place has voted for or against coming out from under the dry law, or (b) the transportation, storage, sale, distribution, receipt or manufacture of light wine, light spirit product and beer otherwise is prohibited.

The provisions of this section shall not be construed as amending, repealing or otherwise affecting any statute or any lawfully adopted ordinance, rule or regulation that prohibits or restricts the location at which, or the premises upon which, alcoholic beverages, light wine, light spirit product or beer may be sold or consumed.

SECTION 47. Section 27-65-241, Mississippi Code of 1972, is amended as follows:

27-65-241. (1) As used in this section, the following terms shall have the meanings ascribed to them in this section unless otherwise clearly indicated by the context in which they are used:

(a) "Hotel" or "motel" means and includes a place of lodging that at any one time will accommodate transient guests on

a daily or weekly basis and that is known to the trade as such. Such terms shall not include a place of lodging with ten (10) or less rental units.

(b) "Municipality" means any municipality in the State of Mississippi with a population of one hundred fifty thousand (150,000) or more according to the most recent federal decennial census.

(c) "Restaurant" means and includes all places where prepared food is sold and whose annual gross proceeds of sales or gross income for the preceding calendar year equals or exceeds One Hundred Thousand Dollars ($100,000.00). The term "restaurant" shall not include any nonprofit organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. For the purpose of calculating gross proceeds of sales or gross income, the sales or income of all establishments owned, operated or controlled by the same person, persons or corporation shall be aggregated.

(2) (a) Subject to the provisions of this section, the governing authorities of a municipality may impose upon all persons as a privilege for engaging or continuing in business or doing business within such municipality, a special sales tax at the rate of not more than one percent (1%) of the gross proceeds of sales or gross income of the business, as the case may be, derived from any of the activities taxed at the rate of seven

percent (7%) or more under the Mississippi Sales Tax Law, Section 27-65-1 et seq.

(b) The tax levied under this section shall apply to every person making sales of tangible personal property or services within the municipality but shall not apply to:

(i) Sales exempted by Sections 27-65-19, 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and 27-65-111 of the Mississippi Sales Tax Law;

(ii) Gross proceeds of sales or gross income of restaurants derived from the sale of food and beverages;

(iii) Gross proceeds of sales or gross income of hotels and motels derived from the sale of hotel rooms and motel rooms for lodging purposes;

(iv) Retail sales of food for human consumption not purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, but which would be exempt under Section 27-65-111(o) from the taxes imposed by this chapter if the food items were purchased with food stamps;

(v) Gross income of businesses engaging or continuing in the business of TV cable systems, subscription TV services, and other similar activities, including, but not limited to, cable Internet services;

(vi) Wholesale sales of food and drink for human consumption sold to full service vending machine operators; and

(vii) Wholesale sales of light wine, light spirit product, beer and alcoholic beverages.

(3) (a) Before any tax authorized under this section may be imposed, the governing authorities of the municipality shall adopt a resolution declaring its intention to levy the tax, setting forth the amount of the tax to be imposed, the purposes for which the revenue collected pursuant to the tax levy may be used and expended, the date upon which the tax shall become effective, the date upon which the tax shall be repealed, and calling for an election to be held on the question. The date of the election shall be set in the resolution. Notice of the election shall be published once each week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the municipality, with the first publication of the notice to be made not less than twenty-one (21) days before the date fixed in the resolution for the election and the last publication to be made not more than seven (7) days before the election. At the election, all qualified electors of the municipality may vote. The ballots used at the election shall have printed thereon a brief description of the sales tax, the amount of the sales tax levy, a description of the purposes for which the tax revenue may be used and expended and the words "FOR THE LOCAL SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the voter shall vote by placing a cross (X) or check mark (√) opposite his choice on the proposition. When the results of the election have been canvassed

by the election commissioners of the municipality and certified by them to the governing authorities, it shall be the duty of such governing authorities to determine and adjudicate whether at least three-fifths (3/5) of the qualified electors who voted in the election voted in favor of the tax. If at least three-fifths (3/5) of the qualified electors who voted in the election voted in favor of the tax, the governing authorities shall adopt a resolution declaring the levy and collection of the tax provided in this section and shall set the first day of the second month following the date of such adoption as the effective date of the tax levy. A certified copy of this resolution, together with the result of the election, shall be furnished to the Department of Revenue not less than thirty (30) days before the effective date of the levy.

(b) A municipality shall not hold more than two (2) elections under this subsection.

(4) The revenue collected pursuant to the tax levy imposed under this section may be expended to pay the cost of road and street repair, reconstruction and resurfacing projects based on traffic patterns, need and usage, and to pay the costs of water, sewer and drainage projects in accordance with a master plan adopted by the * * * department established pursuant to subsection (7).

(5) (a) The special sales tax authorized by this section shall be collected by the Department of Revenue, shall be

accounted for separately from the amount of sales tax collected for the state in the municipality and shall be paid to the municipality. The Department of Revenue may retain one percent (1%) of the proceeds of such tax for the purpose of defraying the costs incurred by the department in the collection of the tax. Payments to the municipality shall be made by the Department of Revenue on or before the fifteenth day of the month following the month in which the tax was collected.

(b) The proceeds of the special sales tax shall be placed into a special municipal fund apart from the municipal general fund and any other funds of the municipality, and shall be expended by the municipality solely for the purposes authorized in subsection (4) of this section. The records reflecting the receipts and expenditures of the revenue from the special sales tax shall be audited annually by an independent certified public accountant. The accountant shall make a report of his findings to the governing authorities of the municipality and file a copy of his report with the Secretary of the Senate and the Clerk of the House of Representatives. The audit shall be made and completed as soon as practical after the close of the fiscal year of the municipality, and expenses of the audit shall be paid from the funds derived by the municipality pursuant to this section.

(c) All provisions of the Mississippi Sales Tax Law applicable to filing of returns, discounts to the taxpayer, remittances to the Department of Revenue, enforced collection,

rights of taxpayers, recovery of improper taxes, refunds of overpaid taxes or other provisions of law providing for imposition and collection of the state sales tax shall apply to the special sales tax authorized by this section, except where there is a conflict, in which case the provisions of this section shall control. Any damages, penalties or interest collected for the nonpayment of taxes imposed under this section, or for noncompliance with the provisions of this section, shall be paid to the municipality on the same basis and in the same manner as the tax proceeds. Any overpayment of tax for any reason that has been disbursed to a municipality or any payment of the tax to a municipality in error may be adjusted by the Department of Revenue on any subsequent payment to the municipality pursuant to the provisions of the Mississippi Sales Tax Law. The Department of Revenue may, from time to time, make such rules and regulations not inconsistent with this section as may be deemed necessary to carry out the provisions of this section, and such rules and regulations shall have the full force and effect of law.

(6) If a municipality expands its corporate boundaries, the governing authorities of the municipality may not impose the special sales tax in the annexed area unless the tax is approved at an election conducted, as far as is practicable, in the manner provided in subsection (3) of this section, except that only qualified electors in the annexed area may vote in the election.

(7) (a) Any municipality that levies the special sales tax authorized under this section shall establish a commission as provided for in this section. Expenditures of revenue from the special sales tax authorized by this section shall be in accordance with a master plan adopted by the commission pursuant to this subsection.

(b) The commission shall be composed of ten (10) voting members who shall be known as commissioners appointed as follows:

(i) Four (4) members representing the business community in the municipality appointed by the local chamber of commerce for initial terms of one (1), two (2), four (4) and five (5) years respectively. The members appointed pursuant to this paragraph shall be persons who represent businesses located within the city limits of the municipality.

(ii) Three (3) members shall be appointed at large by the mayor of the municipality, with the advice and consent of the legislative body of the municipality, for initial terms of two (2), three (3) and four (4) years respectively. All appointments made by the mayor pursuant to this paragraph shall be residents of the municipality.

(iii) One (1) member shall be appointed at large by the Governor for an initial term of four (4) years. All appointments made by the Governor pursuant to this paragraph shall be residents of the municipality.

(iv) One (1) member shall be appointed at large by the Lieutenant Governor for an initial term of four (4) years. All appointments made by the Lieutenant Governor pursuant to this paragraph shall be residents of the municipality.

(v) One (1) member shall be appointed at large by the Speaker of the House of Representatives for a term of four (4) years. All appointments made by the Speaker of the House of Representatives pursuant to this paragraph shall be residents of the municipality.

(c) The terms of all appointments made subsequent to the initial appointment shall be made for five (5) years. Any vacancy which may occur shall be filled in the same manner as the original appointment and shall be made for the unexpired term. Each member of the commission shall serve until his successor is appointed and qualified.

(d) The mayor of the municipality shall designate a chairman of the commission from among the membership of the commission. The vice chairman and secretary shall be elected by the commission from among the membership of the commission for a term of two (2) years. The vice chairman and secretary may be reelected, and the chairman may be reappointed.

(e) The commissioners shall serve without compensation.

(f) Any commissioner shall be disqualified and shall be removed from office for either of the following reasons:

(i) Conviction of a felony in any state court or in federal court; or

(ii) Failure to attend three (3) consecutive meetings without just cause.

If a commissioner is removed for any of the above reasons, the vacancy shall be filled in the manner prescribed in this section and shall be made for the unexpired term.

(g) A quorum shall consist of six (6) voting members of the commission. The commission shall adopt such rules and regulations as may govern the time and place for holding meetings, regular and special.

(h) The commission shall, with input from the municipality, establish a master plan for road and street repair, reconstruction and resurfacing projects based on traffic patterns, need and usage, and for water, sewer and drainage projects. Expenditures of the revenue from the tax authorized to be imposed pursuant to this section shall be made at the discretion of the governing authorities of the municipality if the expenditures comply with the master plan. The commission shall monitor the compliance of the municipality with the master plan.

(8) The governing authorities of any municipality that levies the special sales tax authorized under this section are authorized to incur debt, including bonds, notes or other evidences of indebtedness, for the purpose of paying the costs of road and street repair, reconstruction and resurfacing projects

based on traffic patterns, need and usage, and to pay the costs of water, sewer and drainage projects in accordance with a master plan adopted by the commission established pursuant to subsection (7) of this section. Any bonds or notes issued to pay such costs may be secured by the proceeds of the special sales tax levied pursuant to this section or may be general obligations of the municipality and shall satisfy the requirements for the issuance of debt provided by Sections 21-33-313 through 21-33-323.

(9) This section shall stand repealed from and after July 1, 2035.

SECTION 48. Section 27-71-301, Mississippi Code of 1972, is amended as follows:

27-71-301. When used in this article the words and terms hereafter mentioned shall have the following definitions:

(a) "State Auditor" means the State Auditor of Public Accounts of the State of Mississippi or any legally appointed deputy, clerk or agent.

(b) "Person" includes all natural persons or corporations, a partnership, an association, a joint venture, an estate, a trust, or any other group or combination acting as a unit and shall include the plural as well as the singular unless an intention to give another meaning thereto is disclosed in the context.

(c) "Consumer" means a person who comes into the possession of beer, light spirit product or light wine, the sale

of which is authorized by Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose of consuming it, giving it away or otherwise disposing of it in any manner except by sale, barter or exchange.

(d) "Retailer" means any person who comes into the possession of such light wines, light spirit products or beer for the purpose of selling it to the consumer, or giving it away, or exposing it where it may be taken or purchased or acquired in any other manner by the consumer; however, the term "retailer" shall not include a person who offers and provides beer on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47.

(e) "Wholesaler" means any person who comes into possession of such light wine, light spirit product or beer for the purpose of selling, distributing, or giving it away to retailers or other wholesalers or dealers inside or outside of this state.

(f) "Commissioner" means the Commissioner of Revenue of the Department of Revenue or his duly appointed agents or employees.

(g) "Sale" includes the exchange of such light wines, light spirit products or beer for money, or giving away or distributing any such light wines, light spirit products or beer for anything of value; however, the term "sale" shall not include

beer offered and provided on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47.

(h) "Light wines, light spirit products or beer" means beer, light spirit products and light wines legalized for sale by the provisions of Chapter 3 of Title 67, Mississippi Code of 1972.

(i) "Distributor" includes every person who receives either from within or from without this state, from a brewery, a winery or any other source, light wines, light spirit products or beer as defined in Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose of distributing or otherwise disposing of such light wines, light spirit products or beer to a wholesaler or retailer of such light wines, light spirit products or beer.

(j) "Brewpub" means the premises of any location in which light wine, light spirit product or beer is manufactured or brewed, for retail sale if the total amount of light wine, light spirit product or beer produced on the premises does not exceed the production limitation imposed in Section 67-3-22, and the light wine, light spirit product or beer is produced for consumption on the premises or off the premises as authorized in Section 67-3-22(3).

(k) "Hospitality cart" means a mobile cart from which alcoholic beverages and light wine, light spirit product and beer are sold on a golf course and for which a hospitality cart permit has been issued under Section 67-1-51.

(l) "Small craft brewery" shall have the meaning ascribed to such term in Section 67-3-3.

(m) "Manufacturer" means a person who brews beer at a brewery; however, the term does not include "brewpubs."

SECTION 49. Section 27-71-303, Mississippi Code of 1972, is amended as follows:

27-71-303. Upon each person approved for a permit to engage in the business of selling light wines, light spirit products or beer there is hereby imposed, levied and assessed, to be collected and paid as herein provided, annual privilege taxes in the following amounts:

(a) Retailers--for each place of business.....$ 30.00

(b) Wholesalers or distributors--for each county.....$ 100.00

(c) Manufacturers--for each place of business.....$1,000.00

(d) Brewpubs--for each place of business.....$1,000.00

Upon each person operating an airline, bus, boat or railroad car upon which light wines, light spirit products or beer may be sold there is hereby imposed, levied and assessed, to be collected and paid, annual privilege taxes of Thirty Dollars ($30.00) for each airplane, bus, boat or railroad car so operated in this state.

Provided, however, the amount of the privilege tax to be paid for a permit issued for a period of less than twelve (12) months shall be that proportionate amount of the annual privilege tax that the number of months, or part of a month, remaining until its expiration date bears to twelve (12) months, but in no case shall the privilege tax be less than Ten Dollars ($10.00).

SECTION 50. Section 27-71-307, Mississippi Code of 1972, is amended as follows:

27-71-307. (1) (a) In addition to the specific tax imposed in Section 27-71-303, there is hereby imposed, levied, assessed and shall be collected, as hereinafter provided, an excise or privilege tax upon each person engaged or continuing in the business of wholesaler or distributor of light wines, light spirit products or beer equivalent to Forty-two and Sixty-eight One-hundredths Cents (42.68¢) per gallon upon all light wines, light spirit products and beer acquired for sale or distribution in this state. The excise or privilege tax is also imposed at the same rate upon each gallon of light wine, light spirit product or beer manufactured by brewpubs, each of which shall accurately and reliably measure the quantity of light wine, light spirit product and beer produced by using a measuring device such as a meter or gauge glass or any other suitable method approved by the commissioner. The excise or privilege tax is also imposed at the same rate upon each gallon of light wine, light spirit product or beer provided by a small craft brewery for sale as authorized

under Section 67-3-48 and upon each gallon of light wine, light spirit product or beer provided for tasting or sampling under Section 67-3-47. The tax is hereby imposed as an additional tax for the privilege of engaging or continuing in business.

(b) The excise tax imposed in this section shall be paid to the Department of Revenue monthly on or before the fifteenth day of the month following the month in which the beer, light spirit product or light wine was manufactured or received in this state. Monthly report forms shall be furnished by the commissioner to the wholesalers, distributors, brewpubs and small craft breweries.

(c) Provided that persons operating a railroad dining car, club car or other car in interstate commerce upon which light wines, light spirit products or beer may be sold and who are licensed under the provisions of Section 67-3-27 and any other law relating to the sale of such beverages shall keep such records of the sales of such light wines, light spirit products and beer in this state as the commissioner shall prescribe and shall submit monthly reports of such sales to the commissioner within fifteen (15) days after the end of each month on a form prescribed therefor by the commissioner, and shall pay the tax due under the provisions of this section at the time such reports are filed.

No official crowns, lids, labels or stamps with the word "MISSISSIPPI" or "MS" imprinted thereon or any other evidence of tax payment is required by this section, or may be required under

rule or regulation promulgated by the commissioner, to be affixed on or to any part of a beer, light wine, light spirit product or malt cooler bottle, can or other light wine, light spirit product or malt cooler container. For purposes of this section, malt cooler products shall be defined as a flavored malt beverage made from a base of malt beverage and flavored with fruit juices, aromatics and essences of other flavoring in quantities and proportions such that the resulting product possesses a character and flavor distinctive from the base malt beverage and distinguishable from other malt beverages.

(2) A licensed wholesaler or distributor of beer, light spirit product or light wine may not import beer, light spirit product or light wine from any source other than a brewer or importer authorized by the commissioner to sell such beer, light spirit product or light wine in Mississippi. Any person who violates the provisions of this subsection, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court and shall be subject to license forfeiture following an appropriate hearing before the Department of Revenue.

(3) The wholesaler, distributor or small craft brewery shall be allowed credit for tax paid on beer, light spirit product or light wine which is no longer marketable and which is destroyed by

same when such destruction is witnessed by an agent of the commissioner and when the amount of the excise tax exceeds One Hundred Dollars ($100.00). No other loss will be allowed.

A brewpub shall be allowed credit for light wine, light spirit product or beer which has passed through the meter, gauge glass or other approved measuring device and which has been soured or damaged. The brewpub shall record the removal of sour or damaged light wine, light spirit product or beer and may take credit after the destruction is witnessed by an agent of the commissioner and when the amount of excise tax exceeds Twenty-five Dollars ($25.00). No other loss shall be allowed.

(4) All manufacturers, brewers and importers of beer, light spirit product or light wine shall file monthly reports as prescribed by the commissioner listing sales to each wholesaler or distributor by date, invoice number, quantity and container size, and any other information deemed necessary.

(5) All small craft breweries shall file monthly reports as prescribed by the commissioner regarding the sale of light wine, light spirit product or beer authorized under Section 67-3-48.

(6) Manufacturers who offer and provide limited amounts of beer for tasting or sampling under Section 67-3-47 shall file monthly reports as prescribed by the commissioner regarding the beer provided for such tasting or sampling.

(7) All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest

for nonpayment of taxes and for noncompliance with the provisions of such chapter, and all other requirements and duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of this chapter, and the commissioner shall exercise all the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in the sales tax law except where there is conflict, then the provisions of this chapter shall control.

SECTION 51. Section 27-71-311, Mississippi Code of 1972, is amended as follows:

27-71-311. Before any person shall engage in the business of manufacturing light wines, light spirit products or beer, in the business of wholesaler or distributor of light wines, light spirit products or beer, or in the business of a brewpub, he shall be required to enter into a good and sufficient bond. The bond shall be made payable to the State of Mississippi, in a sum of not less than Five Thousand Dollars ($5,000.00) nor more than Two Hundred Thousand Dollars ($200,000.00), the amount to be determined by the * * * Department of Revenue. The bond of a wholesaler, distributor or brewpub shall not exceed the amount of excise tax estimated to be owed by such wholesaler, distributor or brewpub for any sixty-day period. If a manufacturer is operating a small craft brewery and is distributing light wine, light spirit product or beer for sale as authorized under Section 67-3-48, the manufacturer, in addition to any other required bond, shall enter

into a bond not to exceed the amount of excise tax estimated to be owed by such manufacturer for any sixty-day period. The bond shall be conditioned that he will conduct his business strictly in accordance with the laws of the State of Mississippi, and that he will comply with the rules and regulations prescribed by the commissioner, and pay the taxes imposed under the provisions of this article for the privilege of engaging or continuing in such business. Such bond shall be made in a surety company authorized to do business in the State of Mississippi, and shall be approved by the commissioner. The commissioner shall be authorized to institute suit in the proper court on said bond for any violation of the conditions of said bond.

SECTION 52. Section 27-71-315, Mississippi Code of 1972, is amended as follows:

27-71-315. Except as otherwise provided in Section 67-9-1 for the transportation of limited amounts of alcoholic beverages for the use of an alcohol processing permittee, it shall be unlawful for any person to transport from any point outside of this state to any point within this state, any light wines, light spirit products or beer except for delivery to a licensed wholesaler or distributor in this state; and except by common carrier. The commissioner may, however, upon application of a licensed wholesaler or distributor in this state, and under rules and regulations duly promulgated by him, issue a permit for the transportation by a licensed wholesaler or distributor of light

wines, light spirit products and beer in trucks owned by such licensee, from without the state to the place of business of such licensee within the state, for distribution by said licensee. Such permit shall be granted for a specified period, not to exceed one (1) year.

Any person engaged in transporting any light wines, light spirit products or beer from any point outside of this state to any point within this state, shall have in his possession during the entire time he is engaged in transporting such light wines, light spirit products or beer, an invoice, bill of sale, or bill of lading, showing the true name and address of the consignor, and also the true name and address of the licensed wholesaler or distributor to whom such light wines, light spirit products or beer is to be delivered, and the quantity of such light wines, light spirit products or beer, unless such common carrier maintains a permanent office within this state where complete records of all light wines, light spirit products or beer transported from without this state to points within this state are kept, and open to inspection by the commissioner or his duly authorized agent, at all reasonable times.

It is hereby made the duty of all common carriers, and licensed wholesalers and distributors, transporting light wines, light spirit products or beer from without the State of Mississippi into the State of Mississippi, to furnish the commissioner on or before the fifteenth day of each month, a

report showing the amount of beer transported within the state during the preceding month, the consignor, the consignee, and the quantity of light wines, light spirit products or beer so transported.

SECTION 53. Section 27-71-317, Mississippi Code of 1972, is amended as follows:

27-71-317. It shall be unlawful for any person to transport from any point within this state to another point within this state, any light wines, light spirit products or beer, on which the tax imposed in Section 27-71-307 of this article has not been paid, except for immediate delivery to a licensed wholesaler or distributor in this state. And any person engaged in transporting any light wines, light spirit products or beer, on which the tax imposed in Section 27-71-307 of this article has not been paid, from any point within this state to another point within this state shall have in his possession during the entire time he is engaged in transporting such light wines, light spirit products or beer an invoice, bill of sale, or bill of lading showing the true name and address of the consignor, and also the true name and address of the licensed wholesaler or distributor to whom such light wines, light spirit products or beer is to be delivered and the quantity of such light wines, light spirit products or beer.

SECTION 54. Section 27-71-325, Mississippi Code of 1972, is amended as follows:

27-71-325. It shall be the duty of every wholesaler or distributor of light wines, light spirit products or beer licensed under the provisions of Section 67-3-27, Mississippi Code of 1972, to file with the commissioner, on or before the fifteenth * * * day of each month, a report covering all sales of such light wines, light spirit products or beer during the preceding month. Such report shall show the names and post-office addresses of all persons to whom such light wines, light spirit products or beer have been sold or delivered and the quantities and invoice prices of the light wines, light spirit products or beer thus sold or delivered.

It shall be the duty of each retail dealer in such light wines, light spirit products or beer to procure from the distributor or wholesaler from whom such light wines, light spirit products or beer were purchased or acquired, invoices showing the quantity of the light wines, light spirit products or beer purchased or acquired, and the date of each delivery thereof. Such invoices shall be preserved by the retailer and shall be open for inspection by the commissioner or his duly authorized agent for a period of two (2) years. It shall likewise be the duty of such retail dealer to file with the commissioner, on or before the fifteenth * * * day of each calendar month, a report showing all purchases of such light wines, light spirit products or beer made by him during the preceding month. Such report shall disclose the names and addresses of all persons from whom such light wines,

light spirit products or beer have been purchased or received by him during the preceding month and the quantities thus purchased or received.

SECTION 55. Section 27-71-327, Mississippi Code of 1972, is amended as follows:

27-71-327. Any person engaged in the business of manufacturer, distributor, wholesaler or retailer of light wines, light spirit products or beer and any brewpub shall keep such additional records and make such additional reports with respect to the manufacture, receipt, distribution and sale of such light wines, light spirit products or beer as the commissioner may require. It shall be the duty of the commissioner to prescribe and promulgate uniform rules and regulations for keeping such records and making such reports.

SECTION 56. Section 27-71-333, Mississippi Code of 1972, is amended as follows:

27-71-333. Whenever it shall be determined by the commissioner that any wholesaler or distributor having in his possession, or engaging in the sale or distribution of light wines, light spirit products or beer, has failed to pay the tax, as provided herein, the commissioner shall compute the correct amount of tax due and unpaid and shall notify the taxpayer of the amount as being actually due and unpaid, and penalties, and interest and shall state in what manner this article is violated. The taxpayer so notified shall be given a period of ten (10) days

in which to make objection and show cause why the additional tax, and penalties, and interest, should not be paid. On petition of the taxpayer, a hearing before the commissioner shall be granted, a final decision thereon shall be rendered, and the taxpayer notified as early as practicable. Any tax or deficiency in tax shall be assessed and paid, together with penalties and interest, if any, applicable thereto, within ten (10) days after notice and demand by the commissioner.

If no objection be made to the finding of the commissioner, and no hearing be had before the commissioner within the time herein specified, the findings of the commissioner shall be final. If a hearing be had, and the amount of tax due and unpaid be determined, notice of the amount of such tax, penalties and interest shall be mailed to the taxpayer, and, if not paid within ten (10) days thereafter, the commissioner shall forthwith issue a warrant under official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person owing the tax, found within his county, for the payment of the amount thereof, with added damages, interest and cost of executing the warrant, and to return such warrant to the commissioner and pay to him money collected by virtue thereof by a time to be therein specified not more than sixty (60) days from the date of the warrant. The sheriff shall, within five (5) days after the receipt of the warrant, file with the circuit clerk of his county a copy thereof, and thereupon the

circuit clerk shall enter in the judgment roll, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns, the amount of the tax, or portion thereof and damages for which the warrant is issued, and the date when such copy is filed; and thereupon the amount of such warrant or warrants so docketed shall become a lien upon the title to and interest in the real and personal property, including choses in action, of the person against whom it is issued in the same manner as a judgment duly enrolled in the office of such clerk. The sheriff thereupon shall proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgment or attachment proceedings of a court of record; and he shall be entitled to the same fee for his service in executing the warrant as now allowed by law for like service, to be collected in the same manner as provided by law for like service.

SECTION 57. Section 27-71-335, Mississippi Code of 1972, is amended as follows:

27-71-335. Any light wines, light spirit products or beer found at any point within this state which has been in the possession of any wholesaler or distributor for a period of more than forty-eight (48) hours and any light wines, light spirit products or beer transported into this state from a point outside this state, or from point-to-point within this state in violation of the provisions of this article, or any light wines, light

spirit products or beer held or possessed by any person within this state on which the legal and proper tax has not been paid when due, whether such person be a wholesaler, retailer or distributor, or individual, and whether the light wines, light spirit products or beer be for sale or storage or individual use, except light wines, light spirit products or beer in possession of a licensed wholesaler or distributor for a period of time less than forty-eight (48) hours after receipt of the light wines, light spirit products or beer within this state, and light wines, light spirit products or beer held in storage by licensed manufacturers or producers, are hereby declared to be contraband goods, and there is hereby imposed and assessed, as tax and penalty, to be collected by the commissioner, an amount equal to the amount of the excise tax otherwise imposed under the Mississippi Wine and Beer Tax Law, plus a penalty of one hundred percent (100%) of the amount of the tax; or, at the option of the commissioner, the light wines, light spirit products or beer may be seized by the commissioner or his agents or any sheriff, or other lawful officer, and shall be dealt with in the same manner as provided for in Section 67-1-18 for alcoholic beverages.

SECTION 58. Section 27-71-345, Mississippi Code of 1972, is amended as follows:

27-71-345. Any municipality, in which any business licensed under the provisions of Section 67-3-27, Mississippi Code of 1972, may be carried on, shall have the right to impose upon persons

engaged in such business an annual privilege tax of not more than fifty percent (50%) of the tax imposed by Section 27-71-303 of this article, and any county, in which any business licensed under the provisions of Section 67-3-27, Mississippi Code of 1972, may be carried on outside of the territory taxed by municipalities, shall have the right to impose upon persons engaged in such business an annual privilege tax of not more than fifty percent (50%) of the tax imposed by Section 27-71-303 of this article; provided, however, that no person engaged in the business of manufacturer, brewpub, wholesaler or distributor of light wines, light spirit products or beer shall be taxed by any municipality other than that in which the warehouse or plant of such wholesaler or distributor, or the premises of such brewpub, is located, nor shall any county impose any such tax upon such manufacturer, brewpub, wholesaler or distributor of light wines, light spirit products or beer if the place of business is located within the jurisdiction of any municipality.

SECTION 59. Section 27-71-349, Mississippi Code of 1972, is amended as follows:

27-71-349. (1) Every manufacturer or importer of light wine, light spirit product or beer shall designate sales territories for each of its brands sold in Mississippi and shall name one (1) licensed light wine, light spirit product or beer wholesaler in each territory who, within such territory, shall be the licensed wholesaler for the brand or brands assigned by the

manufacturer or importer. If the manufacturer or importer supplies more than one (1) brand, sales territories may be granted to a different wholesaler for the sale of each brand. No licensed wholesaler shall distribute the specified brand or brands of light wine, light spirit product or beer outside his assigned territory, nor shall he knowingly sell to a retailer whose licensed retail establishment is located outside his assigned territory.

(2) A licensed wholesaler designated as the licensed wholesaler for light wine, light spirit product or beer within a designated sales territory shall present that light wine, light spirit product or beer for sale to all licensed retailers within the designated sales territory without discrimination in service. A licensed wholesaler shall not sell, supply or deliver, either directly or indirectly through a third party, any light wine, light spirit product or beer to a licensed retailer outside of the designated sales territory of the designated wholesaler, nor to any person the licensed wholesaler has reason to believe will sell or supply any quantity of the light wine, light spirit product or beer to any retail location outside of the designated sales territory of the licensed wholesaler.

(3) All light wines, light spirit products or beer shall be transported only by a marked conveyance owned or leased by the licensed wholesaler and operated by the licensed wholesaler or an employee of the wholesaler for the products of a manufacturer or importer within the designated sales territory to the address and

location of a licensed retail dealer within that designated sales territory.

(4) Any light wine, light spirit product or beer sold by the licensed wholesaler shall not be delivered to, received by or stored at any place other than the address and location of the licensed retailer for which the required licenses and permits have been issued.

(5) With the approval of the designated manufacturer, a licensed wholesaler may sell the designated brands to a licensed retailer located in a designated sales territory of another licensed wholesaler if the former licensed wholesaler is unable temporarily for any reason to provide the designated brands of the designated manufacturer within its designated sales territory.

(6) All light wine, light spirit product or beer purchased by a licensed wholesaler for resale in this state shall come into the physical possession of the licensed wholesaler and be unloaded in and distributed from the warehouse of the licensed wholesaler located in this state before being resold in this state.

(7) As used in this section, the term "sales territory" shall have the meaning ascribed to such term in Section 67-7-5.

SECTION 60. Section 27-71-509, Mississippi Code of 1972, is amended as follows:

27-71-509. It shall be unlawful for any brewer, manufacturer, distributor or retailer of light wines, light spirit products and beer, or either of them, to whom a permit has been

issued under the provisions of Sections 67-3-15 and 67-3-23, Mississippi Code of 1972, to write or print on any label or container of either of the above-named commodities any matter relating to the alcoholic content of such beverage or beverages, except a statement, to the effect that the contents of the vessel or container in which light wine shall be sold does not contain alcohol in excess of five percent (5%) of the contents thereof, by weight, that the contents of the vessel or container in which light spirit product shall be sold does not contain alcohol in excess of four percent (4%) of the contents thereof, by weight, and that the contents of the vessel or container in which beer shall be sold does not contain alcohol in excess of eight percent (8%) of the contents thereof, by weight. It shall be unlawful for any such brewer, wholesaler, distributor or retailer to sell any such commodity with any statement in conflict with the provisions of this section, with reference to the alcoholic content of such beverage or beverages, except that a statement of alcoholic content may be expressed on any light wine, light spirit product or beer label in terms of volume or weight, at the manufacturer's option; and such statement, if by volume, shall be subject to the same permitted tolerance allowed for wine containing fourteen percent (14%) alcohol by volume or less by Section 4.36(b)(1) of the Federal Labeling Requirements for Wine, 27 CFR Part 4, subpart D, and Section 7.71(c) 27 CFR Part 7, subpart G, and, if by

weight, shall be subject to an equivalent permitted tolerance, determined in terms of alcohol by weight.

SECTION 61. Section 45-9-101, Mississippi Code of 1972, is amended as follows:

45-9-101. (1) (a) Except as otherwise provided, the Department of Public Safety is authorized to issue licenses to carry stun guns, concealed pistols or revolvers to persons qualified as provided in this section. Such licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person possessing a valid license issued pursuant to this section may carry a stun gun, concealed pistol or concealed revolver.

(b) The licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a stun gun, concealed pistol or revolver and must display both the license and proper identification upon demand by a law enforcement officer. A violation of the provisions of this paragraph (b) shall constitute a noncriminal violation with a penalty of Twenty-five Dollars ($25.00) and shall be enforceable by summons.

(2) The Department of Public Safety shall issue a license if the applicant:

(a) Is a resident of the state. However, this residency requirement may be waived if the applicant possesses a valid permit from another state, is active military personnel

stationed in Mississippi, or is a retired law enforcement officer establishing residency in the state;

(b) (i) Is twenty-one (21) years of age or older; or

(ii) Is at least eighteen (18) years of age but not yet twenty-one (21) years of age and the applicant:

1. Is a member or veteran of the United States Armed Forces, including National Guard or Reserve; and

2. Holds a valid Mississippi driver's license or identification card issued by the Department of Public Safety;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a stun gun, pistol or revolver;

(d) Is not ineligible to possess a firearm by virtue of having been convicted of a felony in a court of this state, of any other state, or of the United States without having been pardoned for same;

(e) Does not chronically or habitually abuse controlled substances to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses controlled substances to the extent that his faculties are impaired if the applicant has been voluntarily or involuntarily committed to a treatment facility for the abuse of a controlled substance or been found guilty of a crime under the provisions of the Uniform Controlled Substances Law or similar laws of any other state or the United States relating to controlled substances

within a three-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of two (2) or more offenses related to the use of alcohol under the laws of this state or similar laws of any other state or the United States within the three-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself;

(h) Has not been adjudicated mentally incompetent, or has waited five (5) years from the date of his restoration to capacity by court order;

(i) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of five (5) years;

(j) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony unless three (3)

years have elapsed since probation or any other conditions set by the court have been fulfilled;

(k) Is not a fugitive from justice; and

(l) Is not disqualified to possess a weapon based on federal law.

(3) The Department of Public Safety may deny a license if the applicant has been found guilty of one or more crimes of violence constituting a misdemeanor unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred prior to the date on which the application is submitted, or may revoke a license if the licensee has been found guilty of one or more crimes of violence within the preceding three (3) years. The department shall, upon notification by a law enforcement agency or a court and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

(4) The application shall be completed, under oath, on a form promulgated by the Department of Public Safety and shall include only:

(a) The name, address, place and date of birth, race, sex and occupation of the applicant;

(b) The driver's license number or social security number of applicant;

(c) Any previous address of the applicant for the two (2) years preceding the date of the application;

(d) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(e) A statement that the applicant has been furnished a copy of this section and is knowledgeable of its provisions;

(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and

(g) A statement that the applicant desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself.

(5) The applicant shall submit only the following to the Department of Public Safety:

(a) A completed application as described in subsection (4) of this section;

(b) A full-face photograph of the applicant taken within the preceding thirty (30) days in which the head, including hair, in a size as determined by the Department of Public Safety,

except that an applicant who is younger than twenty-one (21) years of age must submit a photograph in profile of the applicant;

(c) A nonrefundable license fee of Eighty Dollars ($80.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers, disabled veterans and active duty members of the Armed Forces of the United States shall be exempt from the payment of the license fee;

(d) A full set of fingerprints of the applicant administered by the Department of Public Safety; and

(e) A waiver authorizing the Department of Public Safety access to any records concerning commitments of the applicant to any of the treatment facilities or institutions referred to in subsection (2) and permitting access to all the applicant's criminal records.

(6) (a) The Department of Public Safety, upon receipt of the items listed in subsection (5) of this section, shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing.

(b) The Department of Public Safety shall forward a copy of the applicant's application to the sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence. The sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence may, at

his discretion, participate in the process by submitting a voluntary report to the Department of Public Safety containing any readily discoverable prior information that he feels may be pertinent to the licensing of any applicant. The reporting shall be made within thirty (30) days after the date he receives the copy of the application. Upon receipt of a response from a sheriff or police chief, such sheriff or police chief shall be reimbursed at a rate set by the department.

(c) The Department of Public Safety shall, within forty-five (45) days after the date of receipt of the items listed in subsection (5) of this section:

(i) Issue the license;

(ii) Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsections (2) and (3) of this section. If the Department of Public Safety denies the application, it shall notify the applicant in writing, stating the ground for denial, and the denial shall be subject to the appeal process set forth in subsection (7); or

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

(d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

(7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license, the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and failure to rule within this thirty-day period shall constitute sustaining such denial, suspension or revocation. Such review shall be conducted pursuant to such reasonable rules and regulations as the Commissioner of Public Safety may adopt.

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his

residence for review of such decision. A hearing for review shall be held and shall proceed before the court without a jury upon the record made at the hearing before the Commissioner of Public Safety or his duly authorized agent. No such party shall be allowed to carry a stun gun, concealed pistol or revolver pursuant to the provisions of this section while any such appeal is pending.

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983, and shall be released only upon order of a court having proper jurisdiction over a petition for release of the record or records.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license lost or destroyed, the licensee shall notify the Department of Public Safety in writing of such change or loss. Failure to notify the Department of Public Safety pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of Twenty-five Dollars ($25.00) and shall be enforceable by a summons.

(10) In the event that a stun gun, concealed pistol or revolver license is lost or destroyed, the person to whom the license was issued shall comply with the provisions of subsection (9) of this section and may obtain a duplicate, or substitute thereof, upon payment of Fifteen Dollars ($15.00) to the Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

(11) A license issued under this section shall be revoked if the licensee becomes ineligible under the criteria set forth in subsection (2) of this section.

(12) (a) No less than ninety (90) days prior to the expiration date of the license, the Department of Public Safety shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the department. The licensee must renew his license on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and a full set of fingerprints administered by the Department of Public Safety or the sheriff of the county of residence of the licensee. The first renewal may be processed by mail and the subsequent renewal must be made in person. Thereafter every other renewal may be processed by mail to assure that the applicant must appear in person every ten (10) years for the purpose of obtaining a new photograph.

(i) Except as provided in this subsection, a renewal fee of Forty Dollars ($40.00) shall also be submitted along with costs for processing the fingerprints;

(ii) Honorably retired law enforcement officers, disabled veterans and active duty members of the Armed Forces of the United States shall be exempt from the renewal fee; and

(iii) The renewal fee for a Mississippi resident aged sixty-five (65) years of age or older shall be Twenty Dollars ($20.00).

(b) The Department of Public Safety shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing. The license shall be renewed upon receipt of the completed renewal application and appropriate payment of fees.

(c) A licensee who fails to file a renewal application on or before its expiration date must renew his license by paying a late fee of Fifteen Dollars ($15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer, light spirit product or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship, except as provided in Section 45-9-171; or any place

where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of a written notice clearly readable at a distance of not less than ten (10) feet that the "carrying of a pistol or revolver is prohibited." No license issued pursuant to this section shall authorize the participants in a parade or demonstration for which a permit is required to carry a stun gun, concealed pistol or revolver.

(14) A law enforcement officer as defined in Section 45-6-3, chiefs of police, sheriffs and persons licensed as professional bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of 1972, shall be exempt from the licensing requirements of this section. The licensing requirements of this section do not apply to the carrying by any person of a stun gun, pistol or revolver, knife, or other deadly weapon that is not concealed as defined in Section 97-37-1.

(15) Any person who knowingly submits a false answer to any question on an application for a license issued pursuant to this section, or who knowingly submits a false document when applying for a license issued pursuant to this section, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 99-19-31, Mississippi Code of 1972.

(16) All fees collected by the Department of Public Safety pursuant to this section shall be deposited into a special fund hereby created in the State Treasury and shall be used for implementation and administration of this section. After the close of each fiscal year, the balance in this fund shall be certified to the Legislature and then may be used by the Department of Public Safety as directed by the Legislature.

(17) All funds received by a sheriff or police chief pursuant to the provisions of this section shall be deposited into the general fund of the county or municipality, as appropriate, and shall be budgeted to the sheriff's office or police department as appropriate.

(18) Nothing in this section shall be construed to require or allow the registration, documentation or providing of serial numbers with regard to any stun gun or firearm.

(19) Any person holding a valid unrevoked and unexpired license to carry stun guns, concealed pistols or revolvers issued in another state shall have such license recognized by this state to carry stun guns, concealed pistols or revolvers. The Department of Public Safety is authorized to enter into a reciprocal agreement with another state if that state requires a written agreement in order to recognize licenses to carry stun guns, concealed pistols or revolvers issued by this state.

(20) The provisions of this section shall be under the supervision of the Commissioner of Public Safety. The

commissioner is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

(21) For the purposes of this section, the term "stun gun" means a portable device or weapon from which an electric current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, momentarily stun, knock out, cause mental disorientation or paralyze.

(22) (a) From and after January 1, 2016, the Commissioner of Public Safety shall promulgate rules and regulations which provide that licenses authorized by this section for honorably retired law enforcement officers and honorably retired correctional officers from the Mississippi Department of Corrections shall (i) include the words "retired law enforcement officer" on the front of the license, and (ii) that the license itself have a red background to distinguish it from other licenses issued under this section.

(b) An honorably retired law enforcement officer and honorably retired correctional officer shall provide the following information to receive the license described in this section: (i) a letter, with the official letterhead of the agency or department from which such officer is retiring, which explains that such officer is honorably retired, and (ii) a letter with the official letterhead of the agency or department, which explains that such

officer has completed a certified law enforcement training academy.

(23) A disabled veteran who seeks to qualify for an exemption under this section shall be required to provide, as proof of service-connected disability, verification from the United States Department of Veterans Affairs.

(24) A license under this section is not required for a loaded or unloaded pistol or revolver to be carried upon the person in a sheath, belt holster or shoulder holster or in a purse, handbag, satchel, other similar bag or briefcase or fully enclosed case if the person is not engaged in criminal activity other than a misdemeanor traffic offense, is not otherwise prohibited from possessing a pistol or revolver under state or federal law, and is not in a location prohibited under subsection (13) of this section.

SECTION 62. Section 97-5-49, Mississippi Code of 1972, is amended as follows:

97-5-49. (1) As used in this section:

(a) "Adult" means a person over the age of twenty-one (21) years.

(b) "Alcoholic beverage" has the meaning as defined in Section 67-1-5.

(c) "Beer" has the meaning as defined in Section 67-3-3.

(d) "Light wine" means wine containing five percent (5%) or less of alcohol by weight.

(e) "Minor" means a person under the age of twenty-one (21) years.

(f) "Party" means a gathering or event at which a group of two (2) or more persons assembles for a social occasion or activity at a private residence or a private premises.

(g) "Private premises" means privately owned land, including any appurtenances or improvements on the land.

(h) "Private residence" means the place where a person actually lives or has his or her home.

(i) "Wine" has the meaning as defined in Section 67-1-5.

(j) "Light spirit product" means a beverage of an alcoholic content of not more than four percent (4%) by weight and containing one or more distilled spirits, as defined in Section 67-1-5.

(2) No adult who owns or leases a private residence or private premises shall knowingly allow a party to take place or continue at the residence or premises if a minor at the party obtains, possesses or consumes any alcoholic beverage, light wine, light spirit product or beer if the adult knows that the minor has obtained, possesses or is consuming alcoholic beverages, light wine, light spirit product or beer.

(3) This section shall not apply to legally protected religious activities or gatherings of family members or to any of the exemptions set forth in Section 67-3-54.

(4) Each incident in violation of subsection (2) of this section or any part of subsection (2) constitutes a separate offense.

(5) Any person who violates subsection (2) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than six (6) months, or by both the fine and imprisonment, in the discretion of the court.

SECTION 63. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

House Bill 977

Description: Oil and gas severance; revise date by taxes are due.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: January 1, 2021

History of Actions:

1	02/14	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/10	(H) Passed {Vote}
4	03/11	(H) Transmitted To Senate
5	05/12	(S) Referred To Energy; Finance
6	06/04	(S) DR - TSDP: EN To FI
7	06/09	(S) Title Suff Do Pass
8	06/10	(S) Passed {Vote}
9	06/11	(S) Returned For Enrolling
10	06/15	(H) Enrolled Bill Signed
11	06/16	(S) Enrolled Bill Signed
12	06/22	Approved by Governor

Code Section: A 027-0025-0519, A 027-0025-0717

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Energy, Finance

Principal Author: Powell

Title: AN ACT TO AMEND SECTIONS 27-25-519 AND 27-25-717, MISSISSIPPI CODE OF 1972, TO REVISE THE DATE BY WHICH TAXPAYERS MUST REMIT OIL SEVERANCE AND GAS SEVERANCE TAXES; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Powell To: Ways and Means

HOUSE BILL NO. 977

AN ACT TO AMEND SECTIONS 27-25-519 AND 27-25-717, MISSISSIPPI CODE OF 1972, TO REVISE THE DATE BY WHICH TAXPAYERS MUST REMIT OIL SEVERANCE AND GAS SEVERANCE TAXES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-25-519, Mississippi Code of 1972, is amended as follows:

27-25-519. The taxes levied hereunder shall be due and payable in monthly installments, on or before the twenty-fifth day of the second month next succeeding the month in which the tax accrues. The taxpayer shall, on or before the twenty-fifth day of * * * such second month, make out a return showing the amount of the tax for which he is liable for the * * * month in which the tax accrued, and shall mail or send the same, together with a remittance for the amount of the tax due, to the office of the commissioner. Such monthly return shall be signed by the taxpayer or a duly authorized agent of the taxpayer, and shall be verified by oath.

All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties, and interest for nonpayment of taxes and for noncompliance with the provisions of said chapter, and all other requirements and duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of this article, and the commissioner shall exercise all the power and authority and perform all the duties with respect to taxpayers under this article as are provided in said sales tax law, except where there is conflict, then the provisions of this article shall control. Any damages, penalties, or interest collected by the commissioner for nonpayment of taxes, or for noncompliance with the provisions of this article, shall be paid into the General Fund of the State Treasury by the commissioner.

The * * * Department of Revenue may release production information to the State Oil and Gas Board on all oil produced in this state. Such information may include the name of the producer or operator and the total number of barrels produced for specific wells and time periods, but shall not include the value reported or the tax paid on such production. The State Oil and Gas Board shall provide the * * * Department of Revenue with production information for each well, which information shall include field identification, county or counties where the well is located, well name and American Petroleum Institute number, operator name and well status. The information authorized in this section to be

transferred between the * * * Department of Revenue and State Oil and Gas Board shall be provided in formats as agreed upon by those agencies.

SECTION 2. Section 27-25-717, Mississippi Code of 1972, is amended as follows:

27-25-717. The taxes levied hereunder shall be due and payable in monthly installments on or before the twenty-fifth day of the second month next succeeding the month in which the tax accrues. The taxpayer shall, on or before the twenty-fifth day of * * * such second month, make out a return showing the amount of the tax for which he is liable for the * * * month in which the tax accrued and shall mail or send the same, together with a remittance for the amount of the tax due, to the office of the commissioner. Such monthly return shall be signed by the taxpayer or a duly authorized agent of the taxpayer and shall be verified by oath.

All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties, and interest for nonpayment of taxes and for noncompliance with the provisions of said chapter, and all other requirements and duties imposed upon taxpayers shall apply to all persons liable for taxes under the provisions of this article, and the commissioner shall exercise all the power and authority and perform all the duties with respect to taxpayers under this article as are provided in said Mississippi Sales Tax Law, except where there is conflict,

then the provisions of this article shall control. Provided, however, the statute of limitations for examining returns or to recover taxes and interest on funds held in escrow on price increases shall be three (3) years from the time the tax and interest is withdrawn from the State Depository for distribution to the State Treasury and to the county or counties in which the gas was produced.

Any damages, penalties, or interest collected by the commissioner for nonpayment of taxes or for noncompliance with the provisions of this article shall be paid into the General Fund of the State Treasury by the commissioner.

The * * * Department of Revenue may release production information to the State Oil and Gas Board on all gas produced in this state. Such information may include the name of the producer or operator and the total number of million cubic feet produced for specific wells and time periods, but shall not include the value reported or the tax paid on such production. The State Oil and Gas Board shall provide the * * * Department of Revenue with production information for each well, which information shall include field identification, county or counties where the well is located, well name and American Petroleum Institute number, operator name and well status. The information authorized in this section to be transferred between the * * * Department of Revenue and State Oil and Gas Board shall be provided in formats as agreed upon by those agencies.

SECTION 3. This act shall take effect and be in force from and after January 1, 2021.

Mississippi Legislature
2020 Regular Session

House Bill 984

Description: Mississippi Board of Nursing; revise the notice required for special meeting of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(H)	Referred To Public Health and Human Services
2	02/20	(H)	Title Suff Do Pass
3	03/04	(H)	Passed {Vote}
4	03/05	(H)	Transmitted To Senate
5	05/12	(S)	Referred To Public Health and Welfare; Accountability, Efficiency, Transparency
6	06/02	(S)	DR - TSDP: PH To AC
7	06/08	(S)	Title Suff Do Pass
8	06/11	(S)	Passed {Vote}
9	06/12	(S)	Returned For Enrolling
10	06/18	(H)	Enrolled Bill Signed
11	06/18	(S)	Enrolled Bill Signed
12	06/25		Approved by Governor

Code Section: A 073-0015-0011

----- Additional Information -----

House Committee: Public Health and Human Services
Senate Committee: Public Health and Welfare, Accountability, Efficiency, Transparency

Principal Author: Scoggin

Title: AN ACT TO AMEND SECTION 73-15-11, MISSISSIPPI CODE OF 1972, TO REVISE THE NOTICE REQUIRED TO BE PROVIDED WHEN A SPECIAL MEETING OF THE BOARD OF NURSING IS CALLED; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2020

By: Representative Scoggin

To: Public Health and Human Services

HOUSE BILL NO. 984

AN ACT TO AMEND SECTION 73-15-11, MISSISSIPPI CODE OF 1972, TO REVISE THE NOTICE REQUIRED TO BE PROVIDED WHEN A SPECIAL MEETING OF THE BOARD OF NURSING IS CALLED; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-15-11, Mississippi Code of 1972, is amended as follows:

73-15-11. (1) The members of the Mississippi Board of Nursing shall meet annually and organize for the ensuing year by election of one (1) of its members as president, one (1) as secretary, and one (1) as treasurer. The physician member and the representative of consumers of health services may discuss and nominate but shall not vote for officers nor hold office in such elections.

(2) The board shall meet at least once every four (4) months for the purpose of transacting such business as may come before the board. Any member who shall not attend two (2) consecutive meetings of the board shall be subject to removal by the Governor. The president of the board shall notify the Governor in writing

when any such member has failed to attend two (2) consecutive regular meetings.

(3) Special meetings of the board may be held on call of the president or upon call of any seven (7) members. A * * * notice of time, place and purpose of any special meeting shall be * * * provided by the executive director to all members of the board * * *.

(4) On all matters the board shall function as a board of thirteen (13) members, and seven (7) members, including at least three (3) registered nurses and two (2) practical nurses, shall constitute a quorum. In any case, the affirmative vote of a majority of the members present and participating shall be necessary to take action. In all cases pertaining to practical nursing, such majority must include the affirmative vote of at least one (1) of the practical nurse members of the board.

(5) The board shall hold not less than two (2) examinations each year for registered nurses and not less than two (2) each year for licensed practical nurses, at such times and places as the board may determine.

(6) Each member of the board shall receive a per diem compensation as provided in Section 25-3-69 for attendance at board meetings, together with necessary travel and other expenses incurred in the discharge of his or her duties as a board member.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 999

Description: Amusement rides; provide inspection and incident reporting requirements for.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: January 1, 2021

History of Actions:

1	02/14	(H) Referred To Public Property
2	02/25	(H) Title Suff Do Pass Comm Sub
3	03/05	(H) Committee Substitute Adopted
4	03/05	(H) Amended
5	03/05	(H) Passed As Amended {Vote}
6	03/09	(H) Transmitted To Senate
7	05/11	(S) Referred To Accountability, Efficiency, Transparency
8	06/08	(S) Title Suff Do Pass
9	06/11	(S) Passed {Vote}
10	06/12	(S) Motion to Reconsider Entered
11	06/15	(S) Motion to Reconsider Tabled
12	06/15	(S) Returned For Enrolling
13	06/18	(H) Enrolled Bill Signed
14	06/18	(S) Enrolled Bill Signed
15	06/25	Approved by Governor

Amendments:
[H] Amendment No 1 (Cmte Sub)***Adopted*** Voice Vote

Code Section: BF 021-0019-0033

----- Additional Information -----

House Committee: Public Property
Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Weathersby
Additional Authors: Bell (65th)

Title: AN ACT TO DEFINE CERTAIN TERMS RELATING TO AMUSEMENT RIDE REQUIREMENTS; TO PROVIDE THE REQUIREMENTS FOR AN APPLICATION TO OPERATE AMUSEMENT RIDES IN THE STATE OF MISSISSIPPI; TO REQUIRE AN INSPECTOR TO HAVE CERTAIN CERTIFICATIONS BEFORE INSPECTING AMUSEMENT RIDES; TO PROVIDE INSPECTION REQUIREMENTS FOR AMUSEMENT RIDES; TO PROVIDE REQUIREMENTS FOR OPERATORS AND PATRONS OF AMUSEMENT RIDES; TO REQUIRE INCIDENT REPORTING; TO PROVIDE FOR INCIDENT INVESTIGATION; TO EXEMPT NONPROFIT OWNERS/OPERATORS WHO OPERATE 10 RIDES OR LESS; TO BRING FORWARD SECTION 21-19-33, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE REGULATION OF AMUSEMENT PARKS AND OTHER EVENTS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Weathersby, Bell (65th) To: Public Property

HOUSE BILL NO. 999
(As Passed the House)

AN ACT TO DEFINE CERTAIN TERMS RELATING TO AMUSEMENT RIDE REQUIREMENTS; TO PROVIDE THE REQUIREMENTS FOR AN APPLICATION TO OPERATE AMUSEMENT RIDES IN THE STATE OF MISSISSIPPI; TO REQUIRE AN INSPECTOR TO HAVE CERTAIN CERTIFICATIONS BEFORE INSPECTING AMUSEMENT RIDES; TO PROVIDE INSPECTION REQUIREMENTS FOR AMUSEMENT RIDES; TO PROVIDE REQUIREMENTS FOR OPERATORS AND PATRONS OF AMUSEMENT RIDES; TO REQUIRE INCIDENT REPORTING; TO PROVIDE FOR INCIDENT INVESTIGATION; TO EXEMPT NONPROFIT OWNERS/OPERATORS WHO OPERATE 10 RIDES OR LESS; TO BRING FORWARD SECTION 21-19-33, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE REGULATION OF AMUSEMENT PARKS AND OTHER EVENTS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following words and phrases shall have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Amusement ride" or "ride" means a mechanical device that carries or conveys passengers along, around or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills or excitement. The term "amusement ride" does not include bungee jumping, zip lines, waterslides, or obstacle, challenge or adventure courses.

(b) "Ride operator" means the person having direct control of the starting, stopping, or speed of an amusement ride.

(c) "Owner or operator" means the person or organization that is responsible for the maintenance and operation of an amusement ride or amusement device.

(d) "Department" means the Mississippi Department of Revenue.

(e) "Serious injuries or illnesses" means a person's injury or illness that results in death, dismemberment, significant disfigurement, permanent loss of the use of a body organ, member, function, or system, a compound fracture, or other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

(f) "Minor injuries or illnesses" means injuries and illnesses that may or may not require emergency first aid or significant treatment, or both, but cannot be otherwise classified as a serious injury or illness. This term includes incidents where treatment is limited to such things as the dispensation of over-the-counter medication or plastic adhesive strips, cleansing, rest, and other similar duties or assistance.

SECTION 2. (1) An amusement ride may not be operated in this state unless the Mississippi Department of Revenue has issued an operating permit decal for the amusement ride to the owner or operator within the preceding twelve (12) months.

(2) An application for an operating permit decal must be submitted to the department not fewer than fifteen (15) business days before the first time the amusement ride is operated in the state, and must include the following:

(a) Certificate of insurance in the amount of not less than One Million Dollars ($1,000,000.00) per occurrence that insures the owner or operator against liability for injury to persons and property arising out of the use or operation of the amusement ride;

(b) Payment of a fee not to exceed One Hundred Dollars ($100.00); and

(c) Proof of satisfactory inspection of the ride by a qualified inspector, as defined in Section 3 of this act, conducted no earlier than fifteen (15) days before the submission of the application for an operating permit decal. The date of the inspection must be indicated on the proof of inspection.

(3) The operating permit decal shall be valid for one (1) year from the date of issue and must be in a manner and format as prescribed by the department.

(4) The operating permit decal must be affixed to the ride in a conspicuous location that is plainly visible to patrons.

(5) The department shall:

(a) Determine the manner and format of the operating permit decal, any forms to be used to apply for the decal, and any forms to be used to report serious injuries or illnesses;

(b) Make any forms and certifications available on the department's website and provide decals to owners or operators;

(c) Subject to the limitations of this act, determine the fee for the filing of an operating permit decal;

(d) Allow an owner or operator to apply for operating permit decals for multiple rides at one time, using one (1) form; and

(e) Charge one (1) fee for the filing of each application form, regardless of the number of rides listed on the application.

SECTION 3. (1) The annual inspection required in Section 2 of this act must be conducted by a qualified inspector. A qualified inspector must:

(a) Be certified:

(i) By the National Association of Amusement Ride Safety Officials at a minimum, as a Level I inspector; or

(ii) By the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification under subparagraph (i) of this paragraph;

(b) Have twenty-four (24) months of employment experience in the field of amusement ride inspection; and

(c) Not be the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The certificate of inspection shall certify that the ride is in substantial compliance with ASTM International Standard

F770-19 concerning practices for ownership, operation, maintenance and inspection of amusement rides and devices.

(3) The owner or operator of an amusement ride shall:

(a) Operate, maintain and inspect all rides in substantial compliance with ASTM International Standard F770-19;

(b) Keep a paper or electronic copy of all required forms or certifications, and of all safety inspections conducted by the owner or operator during the preceding twelve (12) months, or until an inspection is repeated, whichever is longer for each ride:

(i) On or near that ride; or

(ii) At the office of the owner or operator; and

(c) Make those records available to the Mississippi Department of Revenue promptly upon request.

SECTION 4. (1) A ride operator must:

(a) Be at least sixteen (16) years of age;

(b) Operate only one (1) amusement ride at a time;

(c) Be in attendance at all times when the ride is operating; and

(d) Operate the ride in accordance with the ride manufacturer's specifications.

(2) To the extent permitted by law, an operator may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(3) Patron responsibility:

(a) There are inherent risks in the participation in or on any amusement ride. Patrons of an amusement ride, by participation, accept the risks inherent in such participation of which the ordinary prudent person is or should be aware. Patrons have the duty to exercise good judgment and act in a responsible manner while using the amusement ride, device, or attraction and to obey all oral or written warnings, or both, before or during participation, or both.

(b) Patrons have a duty to not participate in or on any amusement ride when under the influence of drugs or alcohol.

(c) Patrons have a duty to properly use all ride or device safety equipment provided.

(d) Any patron that violates the provisions of this subsection (3) shall be subject to immediate removal from the amusement facility without a refund of any admission charge.

(e) An owner or operator of an amusement ride shall display the potential penalties for violation of this section at each amusement ride.

SECTION 5. (1) The owner or operator shall maintain an incident report log for all rider injuries or illnesses resulting from the operation of an amusement ride, other than minor injuries or illnesses resulting from the operation of an amusement park ride in this state. The recorded information must include, at a minimum, the following:

(a) The date the injury occurred;

(b) The name, address, and telephone number of the injured rider;

(c) The age of the injured rider;

(d) The manufacturer's name and serial number of the amusement ride involved in the injury;

(e) The name of the amusement ride in use at the location of the injury, if different from the manufacturer's name;

(f) A description of the injury including, to the extent known, its cause; and

(g) A description of any first-aid treatment administered to the injured rider.

(2) The owner or operator shall maintain the incident report log for a minimum of three (3) years.

(3) The owner or operator shall report all serious injuries or illnesses resulting from the operation of an amusement ride in this state, that do not result in death to the Mississippi Department of Revenue, in writing, within seventy-two (72) hours of the owner or operator being notified of the serious injury or illness.

(4) The owner or operator shall report all serious injuries or illnesses resulting from the operation of an amusement ride in this state, that result in death to the administrator within two (2) hours of the owner or operator being notified of the death. The owner or operator may initially notify the department verbally

via telephone, but shall follow up with a written report of a death within twenty-four (24) hours of the owner or operator being notified of the death.

(5) In the event of a serious injury or illness resulting from the operation of an amusement ride in this state, the owner or operator shall immediately cease operation of the amusement ride except as necessary to prevent imminent harm to any person. The owner or operator shall take all reasonable steps to preserve the condition of the amusement ride pending an investigation by the department.

SECTION 6. (1) Within twenty-four (24) hours of notification by the owner or operator of a serious injury or illness, the Mississippi Department of Revenue may initiate an investigation into the reported serious injury or illness. If the department determines that an investigation is not warranted, the department shall promptly notify the owner or operator and the amusement ride may be reopened. If the department initiates an investigation, the amusement ride shall not be reopened to the public until such time as the department's investigation is complete and authorization to reopen is given to the owner or operator.

(2) The department's investigation shall be conducted with the assistance of a qualified inspector employed by the department or through contract with the department. The cost of any investigation shall be paid by the owner or operator.

(3) Any investigation must be conducted with all practicable speed to minimize the disruption of the amusement facility at which the amusement ride is located, as well as unrelated commercial activities.

(4) An investigation of a reported serious injury or illness must be completed immediately following the reasonable determination by the qualified inspector or the department's designee that a principal cause of the serious injury or illness was the injured rider's failure to comply with the posted safety rules or with verbal instructions given by operators.

SECTION 7. The provisions of this act shall not apply to any nonprofit owner/operator who operates ten (10) rides or less.

SECTION 8. The Commissioner of Revenue may adopt any rules and regulations necessary to implement the provisions of this act.

SECTION 9. Section 21-19-33, Mississippi Code of 1972, is brought forward as follows:

21-19-33. The governing authorities of municipalities shall have the power to adopt reasonable ordinances for the regulation of circuses, shows, theaters, bowling alleys, concerts, theatrical exhibitions, skating rinks, pistol or shooting galleries, amusement parks and devices, and other similar things. Said authorities shall have the power and authority to regulate, prohibit, or suppress billiard tables, poolrooms, fortune-tellers, cane or knife racks, and slot machines and other gambling devices within the corporate limits. However, such governing authorities

shall not be authorized to regulate, prohibit or suppress any gambling device, machine or equipment that is owned, possessed, controlled, installed, procured, repaired or transported within the corporate limits in accordance with subsection (4) of Section 97-33-7 or Section 75-76-34. In addition, such governing authorities shall not be authorized to regulate, prohibit or suppress the ownership and display of antique coin machines as defined in Section 27-27-12.

SECTION 10. This act shall take effect and be in force from and after January 1, 2021.

Mississippi Legislature
2020 Regular Session

House Bill 1000

Description: Public property; provide for extinguishment of reverter clause on certain real property upon transfer to the National Park Service.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Two/Thirds
Effective date: Passage

History of Actions:

1	02/14	(H) Referred To Public Property
2	02/18	(H) Title Suff Do Pass
3	02/20	(H) Passed {Vote}
4	02/21	(H) Transmitted To Senate
5	02/26	(S) Referred To Public Property
6	06/04	(S) Title Suff Do Pass
7	06/16	(S) Passed {Vote}
8	06/17	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

----- Additional Information -----

House Committee: Public Property
Senate Committee: Public Property

Principal Author: Weathersby
Additional Authors: Scott, Hale, Brown (70th)

Title: AN ACT TO AMEND SECTION 1, CHAPTER 411, LAWS OF 2011, TO PROVIDE FOR THE EXTINGUISHMENT OF THE REVERTER CLAUSE ON THE PROPERTY DONATED TO TOUGALOO COLLEGE FOR PURPOSES OF BENEFITTING THE MEDGAR EVERS HOME, UPON THE CONDITION THAT THE DONATED PROPERTY IS TRANSFERRED AND CONVEYED TO THE NATIONAL PARK SERVICE OR ANY AGENCY OF THE UNITED STATES GOVERNMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Weathersby, Scott, Hale, Brown (70th)

To: Public Property

HOUSE BILL NO. 1000

AN ACT TO AMEND SECTION 1, CHAPTER 411, LAWS OF 2011, TO PROVIDE FOR THE EXTINGUISHMENT OF THE REVERTER CLAUSE ON THE PROPERTY DONATED TO TOUGALOO COLLEGE FOR PURPOSES OF BENEFITTING THE MEDGAR EVERS HOME, UPON THE CONDITION THAT THE DONATED PROPERTY IS TRANSFERRED AND CONVEYED TO THE NATIONAL PARK SERVICE OR ANY AGENCY OF THE UNITED STATES GOVERNMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 1, Chapter 411, Laws of 2011, is amended as follows:

Section 1. (1) The Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, is authorized to donate to Tougaloo College, all of the rights, title and interest in certain real property under the possession and control of the Department of Archives and History, located in the First Judicial District of Hinds County, Mississippi, subject to the requirements and conditions prescribed in subsection (2) of this section. The property is more particularly described as follows:

Lots 12 and 13, Block 42, Elraine Resurvey, Part 2, a subdivision according to a map or plat thereof which is on file and of record in the Office of the Chancery Clerk of Hinds County at Jackson, Mississippi, recorded in Plat Book 4 at Page 71, reference to which is hereby made in aid of and as a part of this description;

AND

Lot 14, Block 42, Elraine Resurvey, Part 2, a subdivision according to a map or plat thereof which is on file and of record in the Office of the Chancery Clerk of Hinds County at Jackson, Mississippi, recorded in Plat Book 4 at Page 71, reference to which is hereby made in aid of and as a part of this description.

(2) If at any time after the donation of the real property described in subsection (1) of this section Tougaloo College ceases to use the real property for the purposes intended at the time of donation, Tougaloo College shall forfeit its rights, title and interest in the real property, and all of the rights, title and interest in the real property shall revert back to the State of Mississippi, to be held for the use and benefit of the Mississippi Department of Archives and History, unless said property is transferred and conveyed to the National Park Service or any agency of the United States government. Upon an agreement between Tougaloo College and the National Park Service or any agency of the United States government for the transfer of the

real property described in this section, the reverter clause shall be extinguished, and the State of Mississippi shall relinquish its claim to all rights, title and interest in the real property.

(3) The State of Mississippi shall retain all mineral rights in the property donated under the provisions of this section. However, upon transfer and conveyance to the National Park Service or any agency of the United States government, the State of Mississippi shall transfer all mineral rights to the National Park Service or the agency of the United States government gaining possession the real property.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

House Bill 1028

Description: Air Operating Permit Program fees; revise laws relating to.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: July 1, 2020

History of Actions:

1	02/14	(H) Referred To Conservation and Water Resources; Appropriations
2	02/26	(H) DR - TSDP: CR To AP
3	03/03	(H) DR - TSDP: AP To CR
4	03/03	(H) Title Suff Do Pass
5	03/11	(H) Passed {Vote}
6	03/12	(H) Transmitted To Senate
7	05/12	(S) Referred To Environment Prot, Cons and Water Res
8	06/04	(S) Title Suff Do Pass
9	06/11	(S) Passed {Vote}
10	06/12	(S) Returned For Enrolling
11	06/18	(H) Enrolled Bill Signed
12	06/18	(S) Enrolled Bill Signed
13	06/25	Approved by Governor

Code Section: A 049-0017-0014, A 049-0017-0016, A 049-0017-0030, A 049-0017-0032

----- Additional Information -----

House Committee: Conservation and Water Resources, Appropriations
Senate Committee: Environment Prot, Cons and Water Res

Principal Author: Mangold
Additional Authors: Boyd

Title: AN ACT TO AMEND SECTIONS 49-17-14, 49-17-16, 49-17-30 AND 49-17-32, MISSISSIPPI CODE OF 1972, TO REVISE THE AIR OPERATING PERMIT PROGRAM FEE TRUST FUND; TO REVISE THE PURPOSES OF THE ADVISORY COUNCIL; TO REVISE THE TITLE V FEE SYSTEM BY PROVIDING THAT FUNDS ARE COLLECTED THROUGH AN EQUITABLE FEE SYSTEM FOR THE TITLE V PROGRAM; TO PROVIDE THE COMMISSION ON ENVIRONMENTAL

QUALITY WITH CERTAIN AUTHORITY AND REQUIREMENTS REGARDING THE SETTING OF FEES; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 1028

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Mangold, Boyd

To: Conservation and Water Resources; Appropriations

HOUSE BILL NO. 1028

AN ACT TO AMEND SECTIONS 49-17-14, 49-17-16, 49-17-30 AND 49-17-32, MISSISSIPPI CODE OF 1972, TO REVISE THE AIR OPERATING PERMIT PROGRAM FEE TRUST FUND; TO REVISE THE PURPOSES OF THE ADVISORY COUNCIL; TO REVISE THE TITLE V FEE SYSTEM BY PROVIDING THAT FUNDS ARE COLLECTED THROUGH AN EQUITABLE FEE SYSTEM FOR THE TITLE V PROGRAM; TO PROVIDE THE COMMISSION ON ENVIRONMENTAL QUALITY WITH CERTAIN AUTHORITY AND REQUIREMENTS REGARDING THE SETTING OF FEES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-17-14, Mississippi Code of 1972, is amended as follows:

49-17-14. (1) "Title V program" means, as used in Sections 49-17-1 through 49-17-45, the air operating permit program mandated in Title V of the 1990 amendments to the federal Clean Air Act, codified in 42 USCS Section 7661, et seq.

(2) There is created in the State Treasury a fund to be designated as the "Air Operating Permit Program Fee Trust Fund," referred to hereinafter as the "fund."

(3) The fund shall be treated as a special trust fund. Interest earned on the principal therein shall be credited by the Treasurer to the fund.

(4) The fund may receive monies from any available public or private source including, but not limited to, collection of fees, interest, grants, taxes, public and private donations and judicial actions.

(5) To facilitate the proper administration of the fund, the commission is authorized to promulgate rules and regulations for the administration of the fund.

(6) The commission shall expend or utilize monies in the fund by an annual appropriation approved by the Legislature to pay all reasonable direct and indirect costs associated with the development and administration of the Title V program including, but not limited to, the reasonable costs of the following activities as they relate to the Title V program:

(a) Preparing generally applicable regulations or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a permit, permit modification or permit renewal, including the development of an applicable requirement as part of the processing of a permit, or permit modification or renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Implementing and enforcing the terms of any Title V permit (not including any court costs or other costs associated

with an enforcement action), including adequate resources to determine which sources are subject to the program;

(e) Emissions and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to sources under the Small Business Stationary Source Technical and Environmental Compliance Assistance Program under Section 507 of the federal Clean Air Act in determining and meeting their obligations under this section; and

(i) Providing funding to the Advisory Council created in Section 49-17-16 in an amount reasonably sufficient to meet the Advisory Council's obligations under Sections 49-17-1 through 49-17-45.

(7) Monies in the fund at the end of the fiscal year shall be retained in the fund for use in the next succeeding fiscal year. * * * If the fund balance at the end of the fiscal year exceeds thirty-three percent (33%) of the projected annual costs of administering the program, the assessment rates may be adjusted to reduce the future projected fund balance. If necessary, the assessment rates shall be adjusted during the setting of the next fee schedule.

(8) At no time shall a fee be assessed that results in a projected ending fund balance of more than the current annual cost of administering the Title V program.

(* * *9) No such fees shall be utilized by the Department of Environmental Quality or any other person for any purpose or purposes other than those purposes required by Sections 49-17-1 through 49-17-45, as they relate to the Title V program.

SECTION 2. Section 49-17-16, Mississippi Code of 1972, is amended as follows:

49-17-16. (1) (a) An Advisory Council, hereinafter referred to as "Advisory Council," is created to conduct an independent study of the costs for the development and administration of the Title V program within the Department of Environmental Quality and to conduct an annual review of the costs of administering such programs.

(b) The costs to be included within the study for the Title V program shall be those costs set forth in Section 49-17-14. * * * After completing a study of the program needs and costs, the Advisory Council shall recommend an equitable fee system for the Title V program. The annual review of the Title V program shall determine if the fee system is collecting sufficient funds to meet the program needs. The Advisory Council shall recommend an appropriate fee schedule for the upcoming fee year and, if necessary, recommend changes to the existing fee system so that sufficient funds are collected through an equitable fee system. Each annual review report shall be due January 1 of each year to the commission and the Executive Director of the Department of Environmental Quality.

(2) * * * The Department of Environmental Quality shall assist the Advisory Council by providing any information the Advisory Council may require to perform its duties under Sections 49-17-1 through 49-17-45.

(3) The Advisory Council shall be composed of the following seven (7) persons appointed as follows: three (3) representatives of * * * industries that qualify for inclusion under the Title V program, that are required to pay the * * * program fee * * *, with one (1) such representative to be appointed by the Governor, one (1) by the Lieutenant Governor and one (1) by the Speaker of the House of Representatives; the Executive Director of the * * * Mississippi Development Authority; the President of the Mississippi Manufacturers Association; the President of the Mississippi Farm Bureau Federation; and the Chairman of the Mississippi Small Business Compliance Advisory Panel. Nonappointed members of the Advisory Council may designate an alternate member to act in their stead in performing any function of the Advisory Council. The length of term for each member of the Advisory Council shall be four (4) years. Members of the Advisory Council may serve successive and multiple terms.

* * *

(4) * * * Vacancies on the Advisory Council shall be filled by appointment in the same manner as the original appointments. * * *

(5) The Advisory Council shall select from their membership a chairperson to preside over meetings and a vice chairperson to preside in the absence of the chairperson or when the chairperson shall be excused. The Advisory Council shall adopt procedures governing the manner of conducting its business. A majority of the members shall constitute a quorum to do business.

(6) Members of the Advisory Council shall serve without salary. The members of the Advisory Council shall be entitled to receive reimbursement of their actual travel and hotel expenses as provided in Section 25-3-41, incurred while in the performance of their duties as members of the Advisory Council to be paid on an itemized statement approved by the State Fiscal Officer. Expenses shall be paid from fees collected in accordance with Section 49-17-30.

(7) The Executive Director of the Department of Environmental Quality shall provide technical, clerical and other support services, including services by contract, as the Advisory Council determines that it requires in the performance of its functions.

SECTION 3. Section 49-17-30, Mississippi Code of 1972, is amended as follows:

49-17-30. (1) As a condition of * * * Title V of the federal Clean Air Act, the owner or operator of any stationary source required to obtain an air operating permit under the Title

V program, hereinafter referred to as a "Title V permit," shall pay to the Department of Environmental Quality an annual fee.

(2) To facilitate the proper administration of the Title V program, the commission is authorized to assess and collect fees from * * * any stationary source subject to the Title V program. The commission shall establish the amount of each fee to cover the costs of the Title V program as provided in Section 49-17-14. The commission is further authorized to promulgate such rules and regulations as are necessary for the development and administration of the Title V program and the assessment and collection of the Title V program fees.

* * *

(3) (a) * * * The fee schedule for Title V program fees shall be set annually by order of the commission in an amount sufficient to cover the reasonable costs of development and administration of the Title V program. The commission's order shall follow:

(i) Receipt of the report and recommendations of the Advisory Council, if timely received; and

(ii) A public hearing to be held not earlier than thirty (30) days following receipt by the commission of the report and recommendations of the Advisory Council. * * *

(b) * * * The commission may proceed with entry of the order on fees if the Advisory Council fails to submit its report in a timely manner.

(c) The order of the commission may be appealed in the manner set forth in Section 49-17-41.

(d) The determination of the fee set by order of the commission shall not be considered the promulgation of a regulation by the commission.

(e) The record of the public hearing shall be included in the record upon which the order is based and shall become a part of the appellate records for all appeals taken from the order of the commission establishing or modifying Title V program fees. Any undisputed amount due from an appellant must be paid according to the appellant's payment schedule during the pendency of the appeal.

(4) Any person required to pay the Title V * * * program fee set forth under this chapter who disagrees with the calculation or applicability of the person's fee may petition the commission in writing for a hearing in accordance with Section 49-17-35. Such hearing shall be in accordance with Section 49-17-33. Any disputed portion of the fee for which a hearing has been requested will not incur any penalty or interest from and after the receipt by the commission of the hearing petition. The decision of the commission may be appealed in the manner set forth in Section 49-17-41.

(5) All fees collected pursuant to this section shall be deposited into the "Air Operating Permit Program Fee Trust Fund" established in Section 49-17-14.

SECTION 4. Section 49-17-32, Mississippi Code of 1972, is amended as follows:

49-17-32. (1) The commission may delegate to the Department of Environmental Quality the responsibility for the collection of the Title V program fees.

(2) * * * The Title V program fee shall be due September 1 of each year. Each owner or operator may elect a quarterly payment method of four (4) equal payments with the payments due September 1, December 1, March 1 and June 1. The owner or operator shall notify the Department of Environmental Quality that the quarterly payment method will be used by September 1.

(3) If any part of the * * * Title V program fee imposed is not paid within thirty (30) days after the due date, a penalty of ten percent (10%) of the amount due shall at once accrue and be added thereto, unless the permittee demonstrates to the commission that the failure to make timely payment was unavoidable due to financial hardship or otherwise beyond the permittee's control. If the fee is not paid in full, including any penalty within sixty (60) days of the due date, the Environmental Quality Permit Board may revoke the permit upon proper notice and hearing as required by law. Any penalty collected under this section shall be deposited into the "Air Operating Permit Program Fee Trust Fund."

(4) Any owner or operator that fails to properly identify themselves subject to the Title V program may be subject to fees and penalties as determined by the commission.

(* * *5) It is the intent of the Legislature that fees collected pursuant to Sections 49-17-1 through 49-17-45 shall not supplant or reduce in any way the General Fund appropriation to the Department of Environmental Quality.

SECTION 5. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1063

Description: Certificate of educational recognition for tax assessors; authorize Mississippi Cooperative Extension Service to issue.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/14	(H) Referred To County Affairs
2	02/25	(H) Title Suff Do Pass
3	03/04	(H) Passed {Vote}
4	03/05	(H) Transmitted To Senate
5	05/11	(S) Referred To County Affairs
6	06/02	(S) Title Suff Do Pass
7	06/16	(S) Passed {Vote}
8	06/17	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 025-0003-0003

----- Additional Information -----

House Committee: County Affairs
Senate Committee: County Affairs

Principal Author: Byrd

Title: AN ACT TO AMEND SECTION 25-3-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI COOPERATIVE EXTENSION SERVICE, RATHER THAN THE INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, TO ISSUE CERTIFICATES OF EDUCATIONAL RECOGNITION TO TAX ASSESSORS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Byrd To: County Affairs

HOUSE BILL NO. 1063

AN ACT TO AMEND SECTION 25-3-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI COOPERATIVE EXTENSION SERVICE, RATHER THAN THE INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, TO ISSUE CERTIFICATES OF EDUCATIONAL RECOGNITION TO TAX ASSESSORS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-3-3, Mississippi Code of 1972, is amended as follows:

25-3-3. (1) The term "total assessed valuation" as used in this section only refers to the ad valorem assessment for the county and, in addition, in counties where oil or gas is produced, the actual value of oil at the point of production, as certified to the counties by the Department of Revenue under the provisions of Sections 27-25-501 through 27-25-525, and the actual value of gas as certified by the Department of Revenue under the provisions of Sections 27-25-701 through 27-25-723.

(2) The salary of assessors and collectors of the various counties is fixed as full compensation for their services as county assessors or tax collectors, or both if the office of

assessor has been combined with the office of tax collector. The annual salary of each assessor or tax collector, or both if the offices have been combined, shall be based upon the total assessed valuation of his respective county for the preceding taxable year in the following categories and for the following amounts:

(a) For counties having a total assessed valuation of Three Billion Dollars ($3,000,000,000.00) or more, a salary of Seventy Thousand Five Hundred Sixty Dollars ($70,560.00);

(b) For counties having a total assessed valuation of at least Two Billion Dollars ($2,000,000,000.00) but less than Three Billion Dollars ($3,000,000,000.00), a salary of Sixty-seven Thousand Two Hundred Dollars ($67,200.00);

(c) For counties having a total assessed valuation of at least One Billion Dollars ($1,000,000,000.00) but less than Two Billion Dollars ($2,000,000,000.00), a salary of Sixty-four Thousand Five Hundred Seventy-five Dollars ($64,575.00);

(d) For counties having a total assessed valuation of at least Five Hundred Million Dollars ($500,000,000.00) but less than One Billion Dollars ($1,000,000,000.00), a salary of Sixty-one Thousand Four Hundred Twenty-five Dollars ($61,425.00);

(e) For counties having a total assessed valuation of at least Two Hundred Fifty Million Dollars ($250,000,000.00) but less than Five Hundred Million Dollars ($500,000,000.00), a salary of Fifty-eight Thousand Eight Hundred Dollars ($58,800.00);

(f) For counties having a total assessed valuation of at least One Hundred Fifty Million Dollars ($150,000,000.00) but less than Two Hundred Fifty Million Dollars ($250,000,000.00), a salary of Fifty-six Thousand Seven Hundred Dollars ($56,700.00);

(g) For counties having a total assessed valuation of at least Seventy-five Million Dollars ($75,000,000.00) but less than One Hundred Fifty Million Dollars ($150,000,000.00), a salary of Fifty-five Thousand One Hundred Twenty-five Dollars ($55,125.00);

(h) For counties having a total assessed valuation of less than Seventy-five Million Dollars ($75,000,000.00), a salary of Fifty Thousand Nine Hundred Twenty-nine Dollars ($50,929.00).

(3) In addition to all other compensation paid pursuant to this section, the board of supervisors shall pay to a person serving as both the tax assessor and tax collector in their county an additional Five Thousand Dollars ($5,000.00) per year.

(4) The annual salary established for assessors and tax collectors shall not be reduced as a result of a reduction in total assessed valuation. The salaries shall be increased as a result of an increase in total assessed valuation.

(5) In addition to all other compensation paid to assessors and tax collectors in counties having two (2) judicial districts, the board of supervisors shall pay such assessors and tax collectors an additional Three Thousand Five Hundred Dollars ($3,500.00) per year. In addition to all other compensation paid

to assessors or tax collectors, in counties maintaining two (2) full-time offices, the board of supervisors shall pay the assessor or tax collector an additional Three Thousand Five Hundred Dollars ($3,500.00) per year.

(6) In addition to all other compensation paid to assessors and tax collectors, the board of supervisors of a county shall allow for such assessor or tax collector, or both, to be paid additional compensation when there is a contract between the county and one or more municipalities providing that the assessor or tax collector, or both, shall assess or collect taxes, or both, for the municipality or municipalities; and such assessor or tax collector, or both, shall be authorized to receive such additional compensation from the county and/or the municipality or municipalities in any amount allowed by the county and/or the municipality or municipalities for performing those services.

(7) When any tax assessor holds a valid certificate of educational recognition from the * * * Mississippi Cooperative Extension Service or is a licensed appraiser under Section 73-34-1 et seq., he shall receive an additional One Thousand Five Hundred Dollars ($1,500.00) annually beginning the next fiscal year after completion. When any tax assessor is a licensed state certified Residential Appraiser (RA) or licensed state certified Timberland Appraiser (TA) under Section 73-34-1 et seq., or when any tax assessor holds a valid designation from the International Association of Assessing Officers as a Cadastral Mapping

Specialist (CMS) or Personal Property Specialist (PPS) or Residential Evaluation Specialist (RES), he shall receive an additional Six Thousand Five Hundred Dollars ($6,500.00) annually beginning the next fiscal year after completion. When any tax assessor holds the valid designation of Certified Assessment Evaluator (CAE) from the International Association of Assessing Officers or is a state certified General Real Estate Appraiser (GA) under Section 73-34-1 et seq., he shall receive an additional Eight Thousand Five Hundred Dollars ($8,500.00) annually beginning the next fiscal year after completion.

(8) The salaries provided for in this section shall be the total funds paid to the county assessors and tax collectors and shall be full compensation for their services, with any fees being paid to the county general fund.

(9) The salaries provided for in this section shall be payable monthly on the first day of each calendar month by chancery clerk's warrant drawn on the general fund of the county; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

House Bill 1071

Description: Property exempt from seizure under execution or attachment; include Roth individual retirement accounts.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(H) Referred To Banking and Financial Services
2	02/25	(H) Title Suff Do Pass
3	03/11	(H) Read the Third Time
4	03/12	(H) Passed {Vote}
5	03/13	(H) Transmitted To Senate
6	05/11	(S) Referred To Business and Financial Institutions
7	06/01	(S) Title Suff Do Pass
8	06/10	(S) Passed {Vote}
9	06/11	(S) Returned For Enrolling
10	06/15	(H) Enrolled Bill Signed
11	06/16	(S) Enrolled Bill Signed
12	06/22	Approved by Governor

Code Section: A 085-0003-0001

----- Additional Information -----

House Committee: Banking and Financial Services
Senate Committee: Business and Financial Institutions

Principal Author: Guice

Title: AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A ROTH INDIVIDUAL RETIREMENT ACCOUNT IS EXEMPT FROM SEIZURE UNDER EXECUTION OR ATTACHMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Guice

To: Banking and Financial Services

HOUSE BILL NO. 1071

AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A ROTH INDIVIDUAL RETIREMENT ACCOUNT IS EXEMPT FROM SEIZURE UNDER EXECUTION OR ATTACHMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 85-3-1, Mississippi Code of 1972, is amended as follows:

85-3-1. There shall be exempt from seizure under execution or attachment:

(a) Tangible personal property of the following kinds selected by the debtor, not exceeding Ten Thousand Dollars ($10,000.00) in cumulative value:

(i) Household goods, wearing apparel, books, animals or crops;

(ii) Motor vehicles;

(iii) Implements, professional books or tools of the trade;

(iv) Cash on hand;

(v) Professionally prescribed health aids;

(vi) Any items of tangible personal property worth less than Two Hundred Dollars ($200.00) each.

Household goods, as used in this paragraph (a), means clothing, furniture, appliances, one (1) radio and one (1) television, one (1) firearm, one (1) lawn mower, linens, china, crockery, kitchenware, and personal effects (including wedding rings) of the debtor and his dependents; however, works of art, electronic entertainment equipment (except one (1) television and one (1) radio), jewelry (other than wedding rings), and items acquired as antiques are not included within the scope of the term "household goods." This paragraph (a) shall not apply to distress warrants issued for collection of taxes due the state or to wages described in Section 85-3-4.

(b) (i) The proceeds of insurance on property, real and personal, exempt from execution or attachment, and the proceeds of the sale of such property.

(ii) Income from disability insurance.

(c) All property in this state, real, personal and mixed, for the satisfaction of a judgment or claim in favor of another state or political subdivision of another state for failure to pay that state's or that political subdivision's income tax on benefits received from a pension or other retirement plan. As used in this paragraph (c), "pension or other retirement plan" includes:

(i) An annuity, pension, or profit-sharing or stock bonus or similar plan established to provide retirement benefits for an officer or employee of a public or private employer or for a self-employed individual;

(ii) An annuity, pension, or military retirement pay plan or other retirement plan administered by the United States; and

(iii) An individual retirement account.

(d) One (1) mobile home, trailer, manufactured housing, or similar type dwelling owned and occupied as the primary residence by the debtor, not exceeding a value of Thirty Thousand Dollars ($30,000.00); in determining this value, existing encumbrances on the dwelling, including taxes and all other liens, shall first be deducted from the actual value of the dwelling. A debtor is not entitled to the exemption of a mobile home as personal property who claims a homestead exemption under Section 85-3-21, and the exemption shall not apply to collection of delinquent taxes under Sections 27-41-101 through 27-41-109.

(e) Assets held in, or monies payable to the participant or beneficiary from, whether vested or not, (i) a pension, profit-sharing, stock bonus or similar plan or contract established to provide retirement benefits for the participant or beneficiary and qualified under Section 401(a), 403(a), or 403(b) of the Internal Revenue Code (or corresponding provisions of any successor law), including a retirement plan for self-employed

individuals qualified under one (1) of such enumerated sections, (ii) an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code (or corresponding provisions of any successor law), * * * (iii) an individual retirement account or an individual retirement annuity within the meaning of Section 408 of the Internal Revenue Code (or corresponding provisions of any successor law), including a simplified employee pension plan, or (iv) a Roth individual retirement account within the meaning of Section 408A of the Internal Revenue Code (or corresponding provisions of any successor law).

(f) Monies paid into or, to the extent payments out are applied to tuition or other qualified higher education expenses at eligible educational institutions, as defined in Section 529 of the Internal Revenue Code or corresponding provisions of any successor law, monies paid out of the assets of and the income from any validly existing qualified tuition program authorized under Section 529 of the Internal Revenue Code or corresponding provisions of any successor law, including, but not limited to, the Mississippi Prepaid Affordable College Tuition (MPACT) Program established under Sections 37-155-1 through 37-155-27 and the Mississippi Affordable College Savings (MACS) Program established under Sections 37-155-101 through 37-155-125.

(g) The assets of a health savings account, including any interest accrued thereon, established pursuant to a health

savings account program as provided in the Health Savings Accounts Act (Sections 83-62-1 through 83-62-9).

(h) In addition to all other exemptions listed in this section, there shall be an additional exemption of property having a value of Fifty Thousand Dollars ($50,000.00) of whatever type, whether real, personal or mixed, tangible or intangible, including deposits of money, available to any Mississippi resident who is seventy (70) years of age or older.

(i) An amount not to exceed Five Thousand Dollars ($5,000.00) of earned income tax credit proceeds.

(j) An amount not to exceed Five Thousand Dollars ($5,000.00) of federal tax refund proceeds.

(k) An amount not to exceed Five Thousand Dollars ($5,000.00) of state tax refund proceeds.

(l) Subject to the provisions of Section 27-7-1003(2), the assets of a catastrophe savings account, including any interest accrued thereon, established under Sections 27-7-1001 through 27-7-1007.

(m) Nothing in this section shall in any way affect the rights or remedies of the holder or owner of a statutory lien or voluntary security interest.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1127

Description: Durable legal guardianship; revise provisions regarding.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Judiciary A
2	03/03	(H) Title Suff Do Pass
3	03/11	(H) Passed {Vote}
4	03/12	(H) Transmitted To Senate
5	05/11	(S) Referred To Judiciary, Division A
6	05/28	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 043-0021-0609

----- Additional Information -----

House Committee: Judiciary A
Senate Committee: Judiciary, Division A

Principal Author: Cockerham

Title: AN ACT TO AMEND SECTION 43-21-609, MISSISSIPPI CODE OF 1972, TO REVISE THE PROVISIONS FOR DURABLE LEGAL GUARDIANSHIP; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Cockerham To: Judiciary A

HOUSE BILL NO. 1127

AN ACT TO AMEND SECTION 43-21-609, MISSISSIPPI CODE OF 1972, TO REVISE THE PROVISIONS FOR DURABLE LEGAL GUARDIANSHIP; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-21-609, Mississippi Code of 1972, is amended as follows:

43-21-609. In neglect and abuse cases, the disposition order may include any of the following alternatives, giving precedence in the following sequence:

(a) Release the child without further action;

(b) Place the child in the custody of his parents, a relative or other person subject to any conditions and limitations as the court may prescribe. If the court finds that temporary relative placement, adoption or foster care placement is inappropriate, unavailable or otherwise not in the best interest of the child, durable legal custody may be granted by the court to any person subject to any limitations and conditions the court may prescribe; such durable legal custody will not take effect unless

the child or children have been in the physical custody of the proposed durable custodians for at least six (6) months under the supervision of the Department of Human Services. The requirements of Section 43-21-613 as to disposition review hearings do not apply to those matters in which the court has granted durable legal custody. In such cases, the Department of Human Services shall be released from any oversight or monitoring responsibilities;

(c) (i) Grant durable legal relative guardianship to a relative or fictive kin licensed as a foster parent if the licensed relative foster parent or licensed fictive kin foster parent exercised physical custody of the child for at least six (6) months before the grant of durable legal relative guardianship and the Department of Child Protection Services had legal custody or exercised supervision of the child for at least six (6) months. In order to establish durable legal relative guardianship, the youth court must find the following:

1. That * * * reunification * * * has been determined to be inappropriate;

2. That the relative guardian or fictive kin guardian shows full commitment to the care, shelter, education, nurture, and reasonable medical care of the child; and

3. That the youth court consulted with any child twelve (12) years of age or older before granting durable legal relative guardianship.

(ii) The requirements of Section 43-21-613 as to disposition review hearings do not apply to a hearing concerning durable legal relative guardianship. However, the Department of Child Protection Services must conduct an annual review and recertification of the durable legal relative guardianship to determine whether it remains in the best interest of the child. If a material change in circumstances occurs adverse to the best interest of the child, the parent, relative guardian, fictive kin guardian, or Department of Child Protection Services may petition the court to review the durable legal relative guardianship;

(d) Order terms of treatment calculated to assist the child and the child's parent, guardian or custodian which are within the ability of the parent, guardian or custodian to perform;

(e) Order youth court personnel, the Department of Child Protection Services or child care agencies to assist the child and the child's parent, guardian or custodian to secure social or medical services to provide proper supervision and care of the child;

(f) Give legal custody of the child to any of the following but in no event to any state training school:

(i) The Department of Child Protection Services for appropriate placement; or

(ii) Any private or public organization, preferably community-based, able to assume the education, care and

maintenance of the child, which has been found suitable by the court. Prior to assigning the custody of any child to any private institution or agency, the youth court through its designee shall first inspect the physical facilities to determine that they provide a reasonable standard of health and safety for the child;

(g) If the court makes a finding that custody is necessary as defined in Section 43-21-301(3)(b), and that the child, in the action pending before the youth court had not previously been taken into custody, the disposition order shall recite that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child, that the placement of the child in foster care is in the best interests of the child, and unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), the order also must state:

(i) That reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his or her removal, and there is no reasonable alternative to custody; or

(ii) The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his or her own home, and there is no reasonable alternative to custody; or

(iii) If the court makes a finding in accordance with subparagraph (ii) of this paragraph, the court shall order

that reasonable efforts be made towards the reunification of the child with his or her family; or

(h) If the court had, before the disposition hearing in the action pending before the court, taken the child into custody, the judge or referee shall determine, and the youth court order shall recite that reasonable efforts were made by the Department of Child Protection Services to finalize the child's permanency plan that was in effect on the date of the disposition hearing.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1129

Description: Termination of parental rights; clarify jurisdiction of county and youth courts.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Judiciary A
2	03/03	(H) Title Suff Do Pass
3	03/11	(H) Passed {Vote}
4	03/12	(H) Transmitted To Senate
5	05/11	(S) Referred To Judiciary, Division A
6	05/28	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 093-0015-0105

----- Additional Information -----

House Committee: Judiciary A
Senate Committee: Judiciary, Division A

Principal Author: Cockerham

Title: AN ACT TO AMEND SECTION 93-15-105, MISSISSIPPI CODE OF 1972, TO CLARIFY JURISDICTION OF COUNTY COURTS IN RELATION TO TERMINATION OF PARENTAL RIGHTS PROCEEDINGS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Cockerham To: Judiciary A

HOUSE BILL NO. 1129

AN ACT TO AMEND SECTION 93-15-105, MISSISSIPPI CODE OF 1972, TO CLARIFY JURISDICTION OF COUNTY COURTS IN RELATION TO TERMINATION OF PARENTAL RIGHTS PROCEEDINGS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 93-15-105, Mississippi Code of 1972, is amended as follows:

93-15-105. (1) The chancery court has original exclusive jurisdiction over all termination of parental rights proceedings except * * * when a county court * * * sitting as a youth court has acquired jurisdiction of a child in an abuse or neglect proceeding, * * * then the county court shall have original exclusive jurisdiction to hear a petition for termination of parental rights against a parent of that child pursuant to the procedures of this chapter.

(2) (a) Venue in a county court sitting as a youth court for termination of parental rights proceedings shall be in the county in which the court has jurisdiction of the child in the abuse or neglect proceedings. Venue in chancery court for

termination of parental rights proceedings shall be proper either in the county in which the defendant resides, the child resides or in the county where an agency or institution having custody of the child is located.

(b) Transfers of venue shall be governed by the Mississippi Rules of Civil Procedure.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1131

Description: Child custody orders; change reference to certain terms.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Judiciary A
2	03/03	(H) Title Suff Do Pass
3	03/11	(H) Passed {Vote}
4	03/12	(H) Transmitted To Senate
5	05/11	(S) Referred To Judiciary, Division A
6	05/28	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: A 043-0021-0301, A 043-0021-0303

----- Additional Information -----

House Committee: Judiciary A
Senate Committee: Judiciary, Division A

Principal Author: Cockerham

Title: AN ACT TO AMEND SECTIONS 43-21-301 AND 43-21-303, MISSISSIPPI CODE OF 1972, TO CHANGE THE REFERENCE TO THE TERM "ENDANGER" REGARDING CUSTODY ORDER FOR CHILDREN; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 1131

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Cockerham To: Judiciary A

HOUSE BILL NO. 1131

AN ACT TO AMEND SECTIONS 43-21-301 AND 43-21-303, MISSISSIPPI CODE OF 1972, TO CHANGE THE REFERENCE TO THE TERM "ENDANGER" REGARDING CUSTODY ORDER FOR CHILDREN; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-21-301, Mississippi Code of 1972, is amended as follows:

43-21-301. (1) No court other than the youth court shall issue an arrest warrant or custody order for a child in a matter in which the youth court has exclusive original jurisdiction but shall refer the matter to the youth court.

(2) Except as otherwise provided, no child in a matter in which the youth court has exclusive original jurisdiction shall be taken into custody by a law enforcement officer, the Department of Human Services, the Department of Child Protection Services, or any other person unless the judge or his designee has issued a custody order to take the child into custody.

(3) The judge or his designee may require a law enforcement officer, the Department of Human Services, the Department of Child

Protection Services, or any suitable person to take a child into custody for a period not longer than forty-eight (48) hours, excluding Saturdays, Sundays, and statutory state holidays.

(a) Custody orders under this subsection may be issued if it appears that there is probable cause to believe that:

(i) The child is within the jurisdiction of the court;

(ii) Custody is necessary because of any of the following reasons: the child is * * * in danger of a significant risk of harm, any person would be * * * in danger of a significant risk of harm by the child, to ensure the child's attendance in court at such time as required, or a parent, guardian or custodian is not available to provide for the care and supervision of the child; and

(iii) There is no reasonable alternative to custody.

A finding of probable cause under this subsection (3)(a) shall not be based solely upon a positive drug test of a newborn or parent for marijuana; however, a finding of probable cause may be based upon an evidence-based finding of harm to the child or a parent's inability to provide for the care and supervision of the child due to the parent's use of marijuana. Probable cause for unlawful use of any controlled substance, except as otherwise provided in this subsection (3)(a) for marijuana, may be based:

1. upon a parent's positive drug test for unlawful use of a

controlled substance only if the child is * * * in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody; and 2. upon a newborn's positive drug screen for a controlled substance that was used unlawfully only if the child is * * * in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody.

(b) Custody orders under this subsection shall be written. In emergency cases, a judge or his designee may issue an oral custody order, but the order shall be reduced to writing within forty-eight (48) hours of its issuance.

(c) Each youth court judge shall develop and make available to law enforcement a list of designees who are available after hours, on weekends and on holidays.

(4) The judge or his designee may order, orally or in writing, the immediate release of any child in the custody of any person or agency. Except as otherwise provided in subsection (3) of this section, custody orders as provided by this chapter and authorizations of temporary custody may be written or oral, but, if oral, reduced to writing within forty-eight (48) hours, excluding Saturdays, Sundays and statutory state holidays. The written order shall:

(a) Specify the name and address of the child, or, if unknown, designate him or her by any name or description by which he or she can be identified with reasonable certainty;

(b) Specify the age of the child, or, if unknown, that he or she is believed to be of an age subject to the jurisdiction of the youth court;

(c) Except in cases where the child is alleged to be a delinquent child or a child in need of supervision, state that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child, that the placement of the child in foster care is in the best interests of the child, and unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), also state that (i) reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or (ii) the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody. If the court makes a finding in accordance with (ii) of this paragraph, the court shall order that reasonable efforts be made * * * toward the reunification of the child with his or her family;

(d) State that the child shall be brought immediately before the youth court or be taken to a place designated by the order to be held pending review of the order;

(e) State the date issued and the youth court by which the order is issued; and

(f) Be signed by the judge or his designee with the title of his office.

(5) The taking of a child into custody shall not be considered an arrest except for evidentiary purposes.

(6) (a) No child who has been accused or adjudicated of any offense that would not be a crime if committed by an adult shall be placed in an adult jail or lockup. An accused status offender shall not be held in secure detention longer than twenty-four (24) hours prior to and twenty-four (24) hours after an initial court appearance, excluding Saturdays, Sundays and statutory state holidays, except under the following circumstances: a status offender may be held in secure detention for violating a valid court order pursuant to the criteria as established by the federal Juvenile Justice and Delinquency Prevention Act of 2002, and any subsequent amendments thereto, and out-of-state runaways may be detained pending return to their home state.

(b) No accused or adjudicated juvenile offender, except for an accused or adjudicated juvenile offender in cases where jurisdiction is waived to the adult criminal court, shall be detained or placed into custody of any adult jail or lockup for a period in excess of six (6) hours.

(c) If any county violates the provisions of paragraph (a) or (b) of this subsection, the state agency authorized to

allocate federal funds received pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in scattered Sections of 5, 18, 42 USCS), shall withhold the county's share of such funds.

(d) Any county that does not have a facility in which to detain its juvenile offenders in compliance with the provisions of paragraphs (a) and (b) of this subsection may enter into a contractual agreement to detain or place into custody the juvenile offenders of that county with any county or municipality that does have such a facility, or with the State of Mississippi, or with any private entity that maintains a juvenile correctional facility.

(e) Notwithstanding the provisions of paragraphs (a), (b), (c) and (d) of this subsection, all counties shall be allowed a one-year grace period from March 27, 1993, to comply with the provisions of this subsection.

SECTION 2. Section 43-21-303, Mississippi Code of 1972, is amended as follows:

43-21-303. (1) No child in a matter in which the youth court has original exclusive jurisdiction shall be taken into custody by any person without a custody order except that:

(a) A law enforcement officer may take a child in custody if:

(i) Grounds exist for the arrest of an adult in identical circumstances; and

(ii) Such law enforcement officer has probable cause to believe that custody is necessary as defined in Section 43-21-301 * * *; and

(iii) Such law enforcement officer can find no reasonable alternative to custody; or

(b) A law enforcement officer or an agent of the Department of Child Protection Services or the Department of Human Services may take a child into immediate custody if:

(i) There is probable cause to believe that the child is in immediate danger of personal harm; however, probable cause shall not be based solely upon a positive drug test of a newborn or parent for marijuana, but a finding of probable cause may be based upon an evidence-based finding of harm to the child or a parent's inability to provide for the care and supervision of the child due to the parent's use of marijuana. Probable cause for unlawful use of any controlled substance, except as otherwise provided in this subparagraph (i) for marijuana, may be based: 1. upon a parent's positive drug test for unlawful use of a controlled substance only if the child is * * * <u>in danger of a significant risk of harm</u> or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody; and 2. upon a newborn's positive drug screen for a controlled substance that was used unlawfully only if the child is * * * <u>in danger of a significant risk of harm</u> or the parent is unable to provide proper

care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody; and

(ii) There is probable cause to believe that immediate custody is necessary as set forth in Section 43-21-301(3); and

(iii) There is no reasonable alternative to custody; and

(c) Any other person may take a child into custody if grounds exist for the arrest of an adult in identical circumstances. Such other person shall immediately surrender custody of the child to the proper law enforcement officer who shall thereupon continue custody only as provided in subsection (1)(a) of this section.

(2) When it is necessary to take a child into custody, the least restrictive custody should be selected.

(3) Unless the child is immediately released, the person taking the child into custody shall immediately notify the judge or his designee. A person taking a child into custody shall also make continuing reasonable efforts to notify the child's parent, guardian or custodian and invite the parent, guardian or custodian to be present during any questioning.

(4) A child taken into custody shall not be held in custody for a period longer than reasonably necessary, but not to exceed twenty-four (24) hours, and shall be released to his parent,

guardian or custodian unless the judge or his designee authorizes temporary custody.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1138

Description: Self-storage facilities; regulate rental agreements and owners' liens.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H)	Referred To Judiciary A
2	03/03	(H)	Title Suff Do Pass Comm Sub
3	03/11	(H)	Committee Substitute Adopted
4	03/11	(H)	Passed {Vote}
5	03/13	(H)	Transmitted To Senate
6	05/11	(S)	Referred To Business and Financial Institutions
7	06/01	(S)	Title Suff Do Pass
8	06/11	(S)	Passed {Vote}
9	06/12	(S)	Returned For Enrolling
10	06/18	(H)	Enrolled Bill Signed
11	06/18	(S)	Enrolled Bill Signed
12	06/25		Approved by Governor

Code Section: A 085-0007-0121, A 085-0007-0123, A 085-0007-0125, A 085-0007-0127

----- Additional Information -----

House Committee: Judiciary A
Senate Committee: Business and Financial Institutions

Principal Author: Cockerham

Title: AN ACT TO AMEND SECTION 85-7-121, MISSISSIPPI CODE OF 1972, TO ADD THE DEFINITIONS FOR "ELECTRONIC MAIL," "LATE FEE" AND "SALE" FOR THE PROVISIONS OF LAW REGULATING AN OWNER'S LIEN FOR SELF-STORAGE RENTALS; TO AMEND SECTION 85-7-123, MISSISSIPPI CODE OF 1972, TO CLARIFY THE REGULATION FOR RENTAL AGREEMENTS FOR SELF-STORAGE FACILITIES; TO AMEND SECTION 85-7-125, MISSISSIPPI CODE OF 1972, TO CLARIFY THE ENFORCEMENT PROCEDURE FOR AN OWNER'S LIEN; TO AMEND SECTION 85-7-127, MISSISSIPPI CODE OF 1972, TO PROVIDE

A PROCEDURE FOR DISPOSITION OF VEHICLES AND WATERCRAFT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Cockerham To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1138

AN ACT TO AMEND SECTION 85-7-121, MISSISSIPPI CODE OF 1972, TO ADD THE DEFINITIONS FOR "ELECTRONIC MAIL," "LATE FEE" AND "SALE" FOR THE PROVISIONS OF LAW REGULATING AN OWNER'S LIEN FOR SELF-STORAGE RENTALS; TO AMEND SECTION 85-7-123, MISSISSIPPI CODE OF 1972, TO CLARIFY THE REGULATION FOR RENTAL AGREEMENTS FOR SELF-STORAGE FACILITIES; TO AMEND SECTION 85-7-125, MISSISSIPPI CODE OF 1972, TO CLARIFY THE ENFORCEMENT PROCEDURE FOR AN OWNER'S LIEN; TO AMEND SECTION 85-7-127, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE FOR DISPOSITION OF VEHICLES AND WATERCRAFT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 85-7-121, Mississippi Code of 1972, is amended as follows:

85-7-121. As used in Sections 85-7-121 through 85-7-129, the following terms shall have the meaning ascribed to them herein, unless the context clearly requires otherwise:

(a) "Default" means the failure timely to perform any obligation or duty set forth in Sections 85-7-121 through 85-7-129 * * * or the rental agreement;

(b) "Electronic mail" means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two (2) or more computers or

electronic terminals and includes electronic messages that are transmitted within or between computer networks;

(* * *c) "Last known address" means * * * the postal address or electronic mail provided by the occupant in the latest rental agreement or the postal address or electronic mail provided by the occupant in a subsequent written notice of a change of address;

(d) "Late fee" means any fee or charge assessed for an occupant's failure to pay rent when due. Late fee does not include interest on a debt; expenses incurred in the collection of unpaid rent; expenses necessary for preservation of personal property or expenses reasonably incurred in its sale or other disposition pursuant to Sections 85-7-121 through 85-7-129; or costs associated with the enforcement of any other remedy provided by law or contract;

(* * *e) "Leased space" means the individual storage space at the self-storage facility which is leased or rented to an occupant pursuant to a rental agreement * * *;

(* * *f) "Occupant" means a person, his sublessee, successor or assign entitled to the use of a leased space at a self-storage facility under a rental agreement to the exclusion of others;

(* * *g) "Owner" means the owner, operator, lessor or sublessor of a self-storage facility, an agent or any person authorized to manage the facility or to receive rent from an

occupant under a rental agreement. The term "owner" shall not be construed to mean a warehouseman unless the owner issues a warehouse receipt, bill of lading or other document of title for the personal property stored;

(* * *h) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, watercraft, motor vehicles and household items;

(* * *i) "Rental agreement" means any written agreement or lease that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of leased space at a self-storage facility;

(j) "Sale" means a public or private sale that is conducted at the self-storage facility, another suitable location selected by the owner, or on a publicly accessible website that conducts lien sales or personal property sales. The personal property at a sale may be offered as a unit or in parcels.

(* * *k) "Self-storage facility" means any real property used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of occupants themselves storing and removing personal property on "self-service basis"; provided, however, that an occupant may not use a leased space for residential purposes * * *;

(l) "Verified mail" means any method of mailing offered by the United States Postal Service or private delivery service that provides evidence of the mailing.

SECTION 2. Section 85-7-123, Mississippi Code of 1972, is amended as follows:

85-7-123. (1) The owner has a lien upon all personal property located at a self-storage facility for rent, late fees, labor or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to Sections 85-7-121 through 85-7-129. The lien provided for in this section is superior to any other lien or security interest except those which are perfected and recorded in Mississippi prior to the date of default under the rental agreement and except any tax lien as otherwise provided by law. The lien attaches as of the date the personal property is placed in the leased space and the rental agreement shall contain a statement in bold type notifying the occupant of the existence of the lien and that the property stored in the leased space may be sold to satisfy the lien if the occupant is in default. If the rental agreement specifies a limit on the value of personal property that the occupant may store in the leased space, the limit shall be deemed to be the maximum value of the personal property in the leased space of the occupant.

(2) If the occupant is in default, the owner may deny the occupant access to the leased space at the self-storage facility.

(3) The rental agreement may provide for a reasonable late fee for failure of the occupant to timely make payments for the leased space when due. A monthly late fee of no more than Twenty Dollars ($20.00) or twenty percent (20%) of the monthly rental amount, whichever is greater, shall be considered reasonable and is not a penalty.

(4) If the owner offers notice by electronic mail, the occupant may elect to receive notice by electronic mail only by indicating the election in the rental agreement.

SECTION 3. Section 85-7-125, Mississippi Code of 1972, is amended as follows:

85-7-125. The enforcement of the owner's lien against an occupant who is in default shall be in accordance with the following:

(a) No enforcement action shall be taken by the owner, other than denial of access, as provided for in the rental agreement until the occupant has been in default continuously for a period of fourteen (14) days.

(b) During the default period the occupant shall be notified in writing. The notice shall be delivered in person or sent by * * * verified or electronic mail * * * to the last known address of the occupant. Notices shall be deemed delivered when deposited in the United States mail * * *, with a private delivery

service with postage paid or when an electronic message is sent to the last known address provided by the occupant. If the owner receives an automated message that the electronic mail cannot be delivered, the owner shall deliver the notice in person or send the notice by verified mail. The notice shall include an itemized statement of the owner's claim showing the sum due at the time of the notice, the date when the sum became due and any other sums that shall accrue. The notice shall also include a demand for payment of the sum due within a specified time not less than fourteen (14) days after the date of the notice, a statement that the contents of the occupant's lease space are subject to the owner's lien, the name, street address and telephone number of the owner, or his designated agent, whom the occupant may contact to respond to the notice, a conspicuous statement that unless the claim is paid within the time stated, the personal property will be advertised for public or private sale or will be otherwise disposed of at a specified time and place.

(c) After the expiration of the time given in the owner's notice, the owner shall publish * * * advertisement of the sale to the highest bidder in * * * any commercially reasonable manner. The manner of advertisement is deemed commercially reasonable if it is likely to attract at least three (3) independent bidders to attend or view the sale in person or online at the time and place advertised. The notice shall include the address of the self-storage facility where the personal property

is located, and the name of the occupant, and the time, place and manner of the sale.

(d) A sale to the highest bidder shall take place not sooner than fifteen (15) days after the publication. * * *

(e) If no one purchases the property at the sale and if the owner has complied with the foregoing procedures, the owner may otherwise dispose of the property. * * *

SECTION 4. Section 85-7-127, Mississippi Code of 1972, is amended as follows:

85-7-127. (1) Before any sale or other disposition of personal property pursuant to Sections 85-7-121 through 85-7-129, the occupant may pay the amount necessary to satisfy the owner's lien and the reasonable expenses incurred under Sections 85-7-121 through 85-7-129, and thereby redeem the personal property. Upon the payment and satisfaction of the amount necessary to satisfy the lien and the reasonable expenses incurred under Sections 85-7-121 through 85-7-129, the owner shall return the personal property and thereafter the owner shall have no liability to any person with respect to such personal property. Unless the rental agreement specifically provides otherwise and until a * * * sale under Sections 85-7-121 through 85-7-129, the exclusive care, custody and control of all personal property stored in the leased * * * space remains vested in the occupant.

(2) The owner may buy at any sale of personal property to enforce the owner's lien.

(3) A purchaser in good faith of the personal property sold to satisfy the owner's lien takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section.

(4) In the event of a sale under Sections 85-7-121 through 85-7-129, the owner may satisfy his lien from the proceeds of the sale but shall hold the balance, if any, for delivery on demand to the occupant. In no event shall the owner's liability exceed the proceeds of the sale. If the occupant does not claim the balance of the proceeds within one (1) year of the date of the sale, such balance shall be deemed to be abandoned and the owner shall pay such balance to the Treasurer of the State of Mississippi, * * * in accordance with the Uniform Disposition of Unclaimed Property Act.

(5) (a) If the personal property subject to the owner's lien is a vehicle, watercraft, or trailer and rent or other charges remain unpaid for sixty (60) days, the owner may have the vehicle, watercraft, or trailer towed from the self-storage facility. This removal shall not release the owner's lien. The owner shall not be liable for any damages to the vehicle, watercraft, or trailer once the tower takes possession of the property.

(b) Not less than ten days before having personal property towed pursuant to this section, an owner shall notify the occupant by regular mail or electronic mail at the occupant's last

known address and shall include the name, address, and telephone number of the tower and the owner or his designated agent.

(6) Nothing in this article shall be construed as in any manner impairing or affecting the right of parties to create additional rights, duties, and obligations in and by virtue of a rental agreement. In addition to the rights and remedies set forth in this article, the owner has the same rights of and remedies available to a creditor or landlord.

SECTION 5. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1156

Description: Revised Mississippi Law on Notarial Acts; create and repeal existing statutes on notaries public.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: July 1, 2021

History of Actions:

1	02/17	(H) Referred To Judiciary A
2	03/02	(H) Title Suff Do Pass
3	03/10	(H) Passed {Vote}
4	03/11	(H) Transmitted To Senate
5	05/11	(S) Referred To Judiciary, Division A
6	06/02	(S) Title Suff Do Pass
7	06/12	(S) Passed {Vote}
8	06/12	(S) Motion to Reconsider Entered
9	06/15	(S) Motion to Reconsider Tabled
10	06/15	(S) Returned For Enrolling
11	06/18	(H) Enrolled Bill Signed
12	06/18	(S) Enrolled Bill Signed
13	06/25	Approved by Governor

Code Section: A 025-0007-0001, A 089-0003-0001, A 089-0003-0007, A 089-0005-0008, RP 025-0007-0029, RP 025-0033-0001, RP 025-0033-0003, RP 025-0033-0005, RP 025-0033-0007, RP 025-0033-0009, RP 025-0033-0011, RP 025-0033-0013, RP 025-0033-0015, RP 025-0033-0017, RP 025-0033-0019, RP 025-0033-0021, RP 025-0033-0023, RP 025-0033-0025, RP 025-0033-0027, RP 025-0033-0029, RP 025-0033-0031, RP 025-0033-0033, RP 089-0003-0003, RP 089-0003-0005, RP 089-0003-0009, RP 089-0003-0011, RP 089-0003-0013, RP 089-0003-0015

----- Additional Information -----

House Committee: Judiciary A
Senate Committee: Judiciary, Division A

Principal Author: Aguirre

Title: AN ACT TO BE KNOWN AS THE "REVISED MISSISSIPPI LAW ON NOTARIAL ACTS"; TO DEFINE CERTAIN TERMS; TO PRESCRIBE THE

NOTARIAL ACTS THAT A NOTARIAL OFFICER MAY PERFORM; TO AUTHORIZE NOTARIAL OFFICERS TO CHARGE A FEE NOT EXCEEDING $5.00 FOR SERVICES RENDERED; TO REQUIRE INDIVIDUALS REQUESTING CERTAIN NOTARIAL SERVICES TO PHYSICALLY APPEAR BEFORE THE NOTARIAL OFFICER; TO REQUIRE NOTARIAL OFFICERS TO DETERMINE THE IDENTITY OF THE PERSON APPEARING BEFORE THE OFFICER AND TO PRESCRIBE ACCEPTABLE FORMS OF IDENTIFICATION; TO AUTHORIZE NOTARIAL OFFICERS TO REFUSE TO PERFORM CERTAIN ACTS; TO AUTHORIZE AN INDIVIDUAL WHO IS PHYSICALLY UNABLE TO SIGN A RECORD BEFORE A NOTARIAL OFFICER TO DIRECT ANOTHER PERSON TO SIGN ON THE INDIVIDUAL'S BEHALF; TO AUTHORIZE NOTARIAL ACTS TO BE PERFORMED BY NOTARIES PUBLIC, ELECTED JUDGES AND CLERKS OF COURT AND THE SECRETARY OF STATE; TO RECOGNIZE CERTAIN QUALIFIED NOTARIAL ACTS PERFORMED UNDER THE AUTHORITY OF ANOTHER STATE, FEDERALLY RECOGNIZED INDIAN TRIBE, THE FEDERAL GOVERNMENT AND FOREIGN STATES; TO REQUIRE A NOTARIAL ACT TO BE EVIDENCED BY A CERTIFICATE; TO REQUIRE NOTARIES PUBLIC TO HAVE AN OFFICIAL SEAL, TO PROCURE A STAMPING DEVICE AND TO MAINTAIN A JOURNAL OF NOTARIAL ACTS; TO AUTHORIZE NOTARIES PUBLIC TO PERFORM NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS; TO AUTHORIZE INDIVIDUALS TO APPLY TO THE SECRETARY OF STATE FOR A COMMISSION AS A NOTARY PUBLIC AND TO PRESCRIBE THE MINIMUM QUALIFICATIONS; TO AUTHORIZE THE SECRETARY OF STATE TO DENY OR REVOKE A COMMISSION AS A NOTARY PUBLIC FOR CERTAIN SPECIFIED ACTS; TO REQUIRE THE SECRETARY OF STATE TO MAINTAIN AN ELECTRONIC DATABASE OF NOTARIES PUBLIC; TO PROHIBIT NOTARIES PUBLIC FROM ACTING IN CERTAIN CAPACITIES AND PERFORMING CERTAIN ACTS; TO SPECIFY THAT A NOTARIAL ACT IS NOT INVALIDATED DUE TO A FAILURE OF A NOTARIAL OFFICER TO PERFORM CERTAIN STATUTORY DUTIES; TO AUTHORIZE THE SECRETARY OF STATE TO ADOPT RULES NECESSARY TO IMPLEMENT THE REVISED MISSISSIPPI LAW ON NOTARIAL ACTS; TO CLARIFY THAT A COMMISSION AS A NOTARY PUBLIC IN EFFECT ON JULY 1, 2021, CONTINUES UNTIL ITS EXPIRATION, AT WHICH TIME A RENEWAL OF THE COMMISSION MUST COMPLY WITH THIS ACT; TO CLARIFY THAT THIS ACT WILL NOT AFFECT THE VALIDITY OR EFFECT OF NOTARIAL ACTS PERFORMED BEFORE JULY 1, 2021; TO SPECIFY THAT THIS ACT SUPERSEDES CERTAIN FEDERAL STATUTES REGARDING ELECTRONIC SIGNATURES IN COMMERCE; TO AMEND SECTION 25-7-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO REPEAL SECTIONS 25-33-1 THROUGH 25-33-33, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE THE APPOINTMENT OF NOTARIES PUBLIC AND PRESCRIBE THEIR POWERS AND DUTIES; TO REPEAL SECTION 25-7-29, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES NOTARIES PUBLIC TO CHARGE FEES FOR CERTAIN SERVICES; TO AMEND SECTION 89-3-1, MISSISSIPPI CODE OF 1972, TO REVISE PROOF NECESSARY TO RECORDING; TO AMEND SECTION 89-3-7, MISSISSIPPI CODE OF 1972, TO CONFORM THE FORMS OF

ACKNOWLEDGMENT TO THIS ACT; TO AMEND SECTION 89-5-8, MISSISSIPPI CODE OF 1972, TO CONFORM PROVISIONS CONCERNING AFFIDAVITS RELATING TO IDENTIFICATION, MARITAL STATUS, HEIRSHIP OR OTHER MATTERS AFFECTING TITLE TO REAL PROPERTY; TO REPEAL SECTION 89-3-3, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENT AND PROOF NECESSARY FOR RECORDATION; TO REPEAL SECTION 89-3-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENTS BEFORE COMMISSIONED OFFICERS OF UNITED STATES ARMED FORCES; TO REPEAL SECTION 89-3-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR FOREIGN ACKNOWLEDGMENTS; TO REPEAL SECTION 89-3-11, MISSISSIPPI CODE OF 1972, WHICH CLARIFIES THE CONSTRUCTION OF CERTAIN FOREIGN ACKNOWLEDGMENTS; TO REPEAL SECTION 89-3-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENTS OR PROOF MADE IN A FOREIGN COUNTRY; TO REPEAL SECTION 89-3-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PROOF IN THE ABSENCE OF ANY GRANTOR OR WITNESS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Aguirre To: Judiciary A

HOUSE BILL NO. 1156

AN ACT TO BE KNOWN AS THE "REVISED MISSISSIPPI LAW ON NOTARIAL ACTS"; TO DEFINE CERTAIN TERMS; TO PRESCRIBE THE NOTARIAL ACTS THAT A NOTARIAL OFFICER MAY PERFORM; TO AUTHORIZE NOTARIAL OFFICERS TO CHARGE A FEE NOT EXCEEDING $5.00 FOR SERVICES RENDERED; TO REQUIRE INDIVIDUALS REQUESTING CERTAIN NOTARIAL SERVICES TO PHYSICALLY APPEAR BEFORE THE NOTARIAL OFFICER; TO REQUIRE NOTARIAL OFFICERS TO DETERMINE THE IDENTITY OF THE PERSON APPEARING BEFORE THE OFFICER AND TO PRESCRIBE ACCEPTABLE FORMS OF IDENTIFICATION; TO AUTHORIZE NOTARIAL OFFICERS TO REFUSE TO PERFORM CERTAIN ACTS; TO AUTHORIZE AN INDIVIDUAL WHO IS PHYSICALLY UNABLE TO SIGN A RECORD BEFORE A NOTARIAL OFFICER TO DIRECT ANOTHER PERSON TO SIGN ON THE INDIVIDUAL'S BEHALF; TO AUTHORIZE NOTARIAL ACTS TO BE PERFORMED BY NOTARIES PUBLIC, ELECTED JUDGES AND CLERKS OF COURT AND THE SECRETARY OF STATE; TO RECOGNIZE CERTAIN QUALIFIED NOTARIAL ACTS PERFORMED UNDER THE AUTHORITY OF ANOTHER STATE, FEDERALLY RECOGNIZED INDIAN TRIBE, THE FEDERAL GOVERNMENT AND FOREIGN STATES; TO REQUIRE A NOTARIAL ACT TO BE EVIDENCED BY A CERTIFICATE; TO REQUIRE NOTARIES PUBLIC TO HAVE AN OFFICIAL SEAL, TO PROCURE A STAMPING DEVICE AND TO MAINTAIN A JOURNAL OF NOTARIAL ACTS; TO AUTHORIZE NOTARIES PUBLIC TO PERFORM NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS; TO AUTHORIZE INDIVIDUALS TO APPLY TO THE SECRETARY OF STATE FOR A COMMISSION AS A NOTARY PUBLIC AND TO PRESCRIBE THE MINIMUM QUALIFICATIONS; TO AUTHORIZE THE SECRETARY OF STATE TO DENY OR REVOKE A COMMISSION AS A NOTARY PUBLIC FOR CERTAIN SPECIFIED ACTS; TO REQUIRE THE SECRETARY OF STATE TO MAINTAIN AN ELECTRONIC DATABASE OF NOTARIES PUBLIC; TO PROHIBIT NOTARIES PUBLIC FROM ACTING IN CERTAIN CAPACITIES AND PERFORMING CERTAIN ACTS; TO SPECIFY THAT A NOTARIAL ACT IS NOT INVALIDATED DUE TO A FAILURE OF A NOTARIAL OFFICER TO PERFORM CERTAIN STATUTORY DUTIES; TO AUTHORIZE THE SECRETARY OF STATE TO ADOPT RULES NECESSARY TO IMPLEMENT THE REVISED MISSISSIPPI LAW ON NOTARIAL ACTS; TO CLARIFY THAT A COMMISSION AS A NOTARY PUBLIC IN EFFECT ON JULY 1, 2021, CONTINUES UNTIL ITS EXPIRATION, AT WHICH TIME A RENEWAL OF THE COMMISSION MUST COMPLY

WITH THIS ACT; TO CLARIFY THAT THIS ACT WILL NOT AFFECT THE VALIDITY OR EFFECT OF NOTARIAL ACTS PERFORMED BEFORE JULY 1, 2021; TO SPECIFY THAT THIS ACT SUPERSEDES CERTAIN FEDERAL STATUTES REGARDING ELECTRONIC SIGNATURES IN COMMERCE; TO AMEND SECTION 25-7-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO REPEAL SECTIONS 25-33-1 THROUGH 25-33-33, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE THE APPOINTMENT OF NOTARIES PUBLIC AND PRESCRIBE THEIR POWERS AND DUTIES; TO REPEAL SECTION 25-7-29, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES NOTARIES PUBLIC TO CHARGE FEES FOR CERTAIN SERVICES; TO AMEND SECTION 89-3-1, MISSISSIPPI CODE OF 1972, TO REVISE PROOF NECESSARY TO RECORDING; TO AMEND SECTION 89-3-7, MISSISSIPPI CODE OF 1972, TO CONFORM THE FORMS OF ACKNOWLEDGMENT TO THIS ACT; TO AMEND SECTION 89-5-8, MISSISSIPPI CODE OF 1972, TO CONFORM PROVISIONS CONCERNING AFFIDAVITS RELATING TO IDENTIFICATION, MARITAL STATUS, HEIRSHIP OR OTHER MATTERS AFFECTING TITLE TO REAL PROPERTY; TO REPEAL SECTION 89-3-3, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENT AND PROOF NECESSARY FOR RECORDATION; TO REPEAL SECTION 89-3-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENTS BEFORE COMMISSIONED OFFICERS OF UNITED STATES ARMED FORCES; TO REPEAL SECTION 89-3-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR FOREIGN ACKNOWLEDGMENTS; TO REPEAL SECTION 89-3-11, MISSISSIPPI CODE OF 1972, WHICH CLARIFIES THE CONSTRUCTION OF CERTAIN FOREIGN ACKNOWLEDGMENTS; TO REPEAL SECTION 89-3-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENTS OR PROOF MADE IN A FOREIGN COUNTRY; TO REPEAL SECTION 89-3-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PROOF IN THE ABSENCE OF ANY GRANTOR OR WITNESS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Revised Mississippi Law on Notarial Acts."

SECTION 2. As used in this act, the following words and phrases have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) "Acknowledgment" means a declaration by an individual in person before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the

individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(b) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(c) "Electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(d) "In a representative capacity" means acting as:

(i) An authorized officer, manager, member, agent, partner, trustee or other representative for a person other than an individual;

(ii) A public officer, personal representative, guardian or other representative, in the capacity stated in a record;

(iii) An agent or attorney-in-fact for a principal; or

(iv) An authorized representative of another in any other capacity.

(e) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under this act and any other law of this state.

(f) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(g) "Notary public" means an individual commissioned to perform a notarial act by the Secretary of State.

(h) "Official seal" means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.

(i) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(j) "Sign" means, with present intent to authenticate or adopt a record:

(i) To execute or adopt a tangible symbol; or

(ii) To attach to or logically associate with the record an electronic symbol, sound or process.

(k) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(l) "Stamping device" means:

(i) A physical device capable of affixing to a tangible record an official seal; or

(ii) An electronic device or process capable of attaching to or logically associating an official seal with an electronic record.

(m) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin

Islands or any territory or insular possession subject to the jurisdiction of the United States.

(n) "Verification on oath or affirmation," formerly known as a jurat, means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

SECTION 3. This act applies to a notarial act performed on or after July 1, 2021.

SECTION 4. (1) A notarial officer may perform the following notarial acts:

(a) Take acknowledgements;

(b) Administer oaths and affirmations;

(c) Take verifications on oath or affirmation;

(d) Certify depositions of witnesses;

(e) Witness or attest signatures;

(f) Make or note a protest of a negotiable instrument;

(g) Make an affidavit regarding the truth of any witnesses or attested signatures in question along with any corrected language and, if the authenticity or correctness of language affects real property, file the same in the land records in the office of the chancery clerk where the land is located; and

(h) Any other acts so authorized by the law of this state.

(2) A notarial officer may not perform a notarial act when the officer:

(a) Is a party to the record being notarized;

(b) Is a spouse, child, sibling, parent, grandparent, grandchild, aunt or uncle, or niece or nephew, including a son or daughter-in-law, a mother or father-in-law, a stepchild or stepparent, or a half-sibling, of the person whose signature is being notarized or the person taking a verification on oath or affirmation from the officer; or

(c) Will receive as a direct result any commission, fee, advantage, right, title, beneficial interest, cash, property or other consideration exceeding in value the fees required by rules established by the Secretary of State.

(3) A notarial officer is not disqualified from performing a notarial act by virtue of his or her profession when the officer:

(a) Is an employee performing a notarial act on behalf of, or which benefits, the employer;

(b) Is an attorney who maintains an attorney-client relationship with the person whose signature is the subject of the notarial act; or

(c) Is a shareholder of a corporation or member of a limited liability company which is a party to a record that is the subject of the notarial act.

(4) A notarial act performed in violation of subsection (2) is voidable.

SECTION 5. A notarial officer may charge a fee in an amount not to exceed Five Dollars ($5.00) for services rendered unless

otherwise prohibited by law or by rules promulgated by the Secretary of State.

SECTION 6. (1) A notarial officer who takes an acknowledgment of a record, takes a verification of a statement on oath or affirmation (jurat), or witnesses or attests to a signature, must determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing in person before the officer has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who makes or notes a protest of a negotiable instrument must determine the matters set forth in Section 75-3-505(b).

SECTION 7. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature must appear physically in person before the notarial officer at the time of the notarial act.

SECTION 8. (1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is known personally to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual by means of inspecting:

(a) An unexpired passport, an unexpired driver's license or a driver's license that has not been expired for more than five (5) years, a government-issued nondriver identification card, a Mississippi voter ID card or an unexpired photographic identification card issued by a federally recognized Indian tribe or nation; or

(b) Another form of government identification issued to an individual which is not expired, contains the signature and a photograph of the individual, and is satisfactory to the officer.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

SECTION 9. (1) A notarial officer may refuse to perform a notarial act if the officer knows or suspects the transaction is illegal, false or deceptive, or if the officer is not satisfied that:

(a) The individual executing the record is competent;

(b) The individual executing the record has the capacity to execute the record;

(c) The individual's signature is knowingly and voluntarily made; or

(d) The notarial act is in compliance with this act or with rules issued by the Secretary of State to implement this act.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by any law other than this act.

(3) A notary may not be required to perform a notarial act outside the notary's regular workplace or business hours.

SECTION 10. If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

SECTION 11. (1) A notarial act may be performed in this state by:

(a) A notary public of this state;

(b) An elected judge, a clerk or deputy clerk of a court of this state; or

(c) The Mississippi Secretary of State or a Mississippi Assistant Secretary of State.

(2) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1) conclusively establish the authority of the officer to perform the notarial act.

SECTION 12. (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

(a) A notary public of that state;

(b) A judge, a clerk or a deputy clerk of a court of that state; or

(c) Any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state is prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) conclusively establish the authority of the officer to perform the notarial act.

SECTION 13. (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect under the laws of this state as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

(a) A notary public authorized by the tribe;

(b) A judge, a clerk or a deputy clerk of a court of that tribe; or

(c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe is prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) conclusively establish the authority of the officer to perform the notarial act.

SECTION 14. (1) A notarial act performed under federal law has the same effect under the laws of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

(a) A judge, clerk or deputy clerk of a court;

(b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(c) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (b) or (c) conclusively establish the authority of the officer to perform the notarial act.

SECTION 15. (1) In this section, "foreign state" means a government other than the United States, a state of the United States or a federally recognized Indian tribe.

(2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as though performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is established conclusively.

(4) The signature and official seal of an individual holding an office described in subsection (3) are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

SECTION 16. (1) A notarial act must be evidenced by a certificate. The certificate must:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State;

(c) Identify the jurisdiction in which the notarial act is performed;

(d) Contain the title of office of the notarial officer; and

(e) If the notarial officer is a notary public, indicate the date of expiration of the notary public's commission.

(2) If a notarial act regarding a tangible record is performed by a notary public, the notary public's official seal must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c) and (d), the notarial officer's official seal may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection (1)(b), (c) and (d), the notarial officer's official seal may be attached to or logically associated with the certificate.

(3) The party drafting a record that is the subject of a notarial act is responsible for the form of the certificate, its wording and legal sufficiency. A notary public is not required to draft, edit or amend a certificate where the record presented does not contain an acceptable certificate; instead, the notary must refuse to perform the notarial act with respect to the record.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) and:

(a) Is in a form otherwise permitted by the law of this state;

(b) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(c) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in Sections 4, 5, 6 and 7 of this act or any law of this state other than this act.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in Sections 4, 5, 6 and 7 of this act.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards under Section 20 of this act for attaching, affixing or logically associating the certificate, the process must conform to those standards.

(8) The signature of a notarial officer certifying a notarial act may not be deemed evidence to show that the notarial officer had knowledge of the contents of the record so signed, other than those specific contents which constitute the signature, execution, acknowledgment, oath, affirmation, affidavit,

verification or other act which the signature of that notarial officer chronicles.

SECTION 17. (1) Every notary public appointed and commissioned must procure, at his own expense, a suitable official seal. The official seal of a notary public must:

(a) Include the notary public's name, jurisdiction, commission expiration date and other information required by the Secretary of State; and

(b) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(2) The board of supervisors of every county must provide an official seal, with the inscription "notary public" around the margin and the image of an eagle in the center, which official seal must be kept in the office of the clerk of the circuit court. A judge, chancellor, clerk or deputy clerk of a court of this state, the Mississippi Secretary of State or an Assistant Secretary of State of this state may use the official seal to perform a notarial act under Section 10(1)(b) or (c) of this act.

(3) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the official seal shall destroy or deface, as soon as reasonably practicable, all official seals of the notary public so that they may not be misused.

SECTION 18. (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public must disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device must render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

(2) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian must notify promptly the Secretary of State upon discovery that the device is lost or stolen.

SECTION 19. (1) A notary public must maintain a journal in which the notary public chronicles all notarial acts that the notary public performs.

(2) A journal must be created on a tangible or electronic medium. A notary public shall maintain only one (1) journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records. If the

journal is tangible, it must be a permanent, bound register with numbered pages. An electronic journal must conform to specifications set forth in rules by the Secretary of State.

(3) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

(a) The date and time of the notarial act;

(b) A description of the record, if any, and type of notarial act;

(c) The full name and address of each individual for whom the notarial act is performed;

(d) If identity of the individual is based on personal knowledge, a statement to that effect;

(e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential;

(f) The address where the notarial act was performed if not the notary's business address; and

(g) The fee, if any, charged by the notary public.

(4) If the journal of notary public is lost or stolen, the notary public must notify promptly the Secretary of State upon discovery that the journal is lost or stolen.

(5) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public must deposit all journal records with the circuit clerk of the county of residence of the notary public.

(6) Upon the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall:

(a) Notify the Secretary of State of the death or adjudication in writing; and

(b) Within thirty (30) days of death or adjudication of incompetency, transmit all journal records to the circuit clerk of the county of residence of the notary public.

SECTION 20. (1) A notary public may perform a notarial act with respect to electronic records pursuant to this act.

(2) The Secretary of State has the sole power to determine the methods by which notarial acts with respect to electronic records may be implemented in this state. Those methods must be set forth in rules promulgated by the Secretary of State.

(3) A notary public seeking to perform notarial acts with respect to electronic records must file an additional registration with the Secretary of State subsequent to being granted a notary commission.

SECTION 21. (1) An individual qualified under subsection (2) may apply to the Secretary of State for a commission as a

notary public. The applicant must comply with and provide the information required by rules established by the Secretary of State and pay any application fee.

(2) An applicant for a commission as a notary public must:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen or permanent legal resident of the United States;

(c) Be a resident of Mississippi for not less than thirty (30) days immediately preceding the date of the application;

(d) Be able to read and write English;

(e) Not be disqualified to receive a commission under Section 22 of this act; and

(f) Meet such other requirements as the Secretary of State may establish by rule.

(3) Before issuance of a commission as a notary public, an applicant for the commission must execute the oath of office prescribed by Section 268 of the Constitution and submit it to the Secretary of State.

(4) Before issuance of a commission as a notary public, the applicant for a commission must submit to the Secretary of State an assurance in the form of a surety bond or its functional equivalent in the amount of Five Thousand Dollars ($5,000.00) pursuant to the rules set forth by the Secretary of State. The assurance must be issued by a surety or other entity licensed by

the Mississippi Department of Insurance. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the Secretary of State. If a notary public violates a law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity must give thirty (30) days' notice to the Secretary of State before canceling the assurance. The surety or issuing entity must notify the Secretary of State not later than thirty (30) days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the Secretary of State.

(5) On compliance with this section, the Secretary of State shall issue a commission as a notary public to an applicant for a term of four (4) years.

(6) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the laws of this state on public officials or employees.

SECTION 22. (1) The Secretary of State may deny, refuse to renew, revoke, suspend or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act as a notary public, including:

(a) Failure to comply with this act;

(b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Secretary of State;

(c) A conviction of any felony, including a plea of nolo contendere, of the applicant or notary public, unless released from incarceration more than ten (10) years before the commission is to take effect or, if no incarceration is ordered, more than ten (10) years from the conviction date have passed;

(d) A conviction, including a plea of nolo contendere, of the applicant or notary public for any crime determined by the Secretary of State to be of a nature incompatible with the duties of a notary public;

(e) Failure by the notary public to discharge any duty required of a notary public, whether required by this act, rules of the Secretary of State or any federal or state law;

(f) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;

(g) Violation by the notary public of a rule of the Secretary of State regarding a notary public;

(h) Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state;

(i) Failure of the notary public to maintain an assurance as provided in Section 21(4) of this act; or

(j) Failure to maintain and protect the notary's journal as required by this act and any rules promulgated by the Secretary of State under this act.

(2) If the Secretary of State denies, refuses to renew, revokes, suspends or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to file an appeal in proper form with the Secretary of State within forty-five (45) days after the Secretary of State's action, except that an applicant may not appeal when the Secretary of State, within five (5) years preceding the application, has:

(a) Denied or revoked for disciplinary reasons any previous application, commission or license of the applicant; or

(b) Made a finding under this act that the grounds for revocation of the applicant's commission existed.

(3) The authority of the Secretary of State to deny, refuse to renew, suspend, revoke or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

SECTION 23. The Secretary of State must maintain an electronic database of notaries public:

(a) Through which a person may verify the authority of a notary public to perform notarial acts; and

(b) Which indicates whether a notary public has notified the Secretary of State that the notary public will be performing notarial acts on electronic records.

SECTION 24. (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give legal advice or otherwise practice law;

(b) Act as an immigration consultant or an expert on immigration matters;

(c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or

(d) Receive compensation for performing any of the activities listed in this subsection.

(2) A notary public may not engage in false or deceptive advertising.

(3) A notary public who is not an attorney licensed to practice law in this state may not use the term "notario" or "notario publico."

(4) A notary public who is not an attorney licensed to practice law in this state may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary public must include the following statement, or an alternate statement

authorized or required by the Secretary of State, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media or the Internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(5) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

(6) Failure to comply with subsections (1) through (5) constitutes an unfair or deceptive act under Section 75-24-5.

(7) A person who knowingly and willfully violates subsections (1) through (5) is guilty of a misdemeanor, and upon conviction, shall be fined in an amount not to exceed One Thousand Dollars ($1,000.00).

(8) Upon a second conviction of any person under subsections (1) through (5), the offenses being committed within a period of five (5) years, the person is guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in the county jail

for a period not to exceed one (1) year or a fine in an amount not to exceed One Thousand Dollars ($1,000.00), or both.

(9) Upon a third or subsequent conviction of any person for violation of subsections (1) through (5), the offenses being committed within a period of five (5) years, the person is guilty of a felony, and upon conviction, shall be punished by confinement in the custody of the Mississippi Department of Corrections for a period not to exceed five (5) years or a fine in an amount not to exceed Five Thousand Dollars ($5,000.00), or both.

(10) Criminal convictions in other jurisdictions for violations of substantially similar provisions to those contained in subsections (1) through (5) are counted in computing whether a violation under subsections (1) through (5) is a first, second, third or subsequent offense.

SECTION 25. Except as otherwise provided in Section 4(2) of this act, the failure of a notarial officer to perform a duty or meet a requirement specified in this act does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this act does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the laws of this state other than this act or the laws of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

SECTION 26. The Secretary of State may adopt any rules necessary to implement this chapter after complying with the Mississippi Administrative Procedures Law.

SECTION 27. A commission as a notary public in effect on July 1, 2021, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after July 1, 2021, is subject to and must comply with this act. A notary public, in performing notarial acts after July 1, 2021, must comply with this act.

SECTION 28. This chapter does not affect the validity or effect of a notarial act performed before July 1, 2021.

SECTION 29. This chapter modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 USC Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 USC Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 USC Section 7003(b).

SECTION 30. Section 25-7-1, Mississippi Code of 1972, is amended as follows:

25-7-1. It shall be lawful for the Clerk of the Supreme Court, the clerks of the circuit and chancery courts, the clerks of the justice court, masters and commissioners in chancery, sheriffs, constables, justice court judges, * * * and other officers and persons named in this chapter to demand, receive, and take the several fees hereinafter mentioned and allowed for any

business by them respectively done by virtue of their several offices, and no more.

SECTION 31. Section 89-3-1, Mississippi Code of 1972, is amended as follows:

89-3-1. (1) * * * A document concerning real property or conveying personal property may not be recorded unless, in the case of a paper document, it contains an original signature or signatures, or in the case of an electronic document, contains an electronic signature or signatures that comply with the Uniform Real Property Electronic Recording Act (Article 3, Chapter 5, Title 89, Mississippi Code of 1972). For purposes of this section, the terms "document," "paper document" and "electronic document" have the meaning given in the Uniform Real Property Electronic Recording Act. A document concerning real property or conveying personal property which conforms to this subsection may be recorded if it is acknowledged or proved * * * according to law, or in the case of a document that is an affidavit, verified upon oath or affirmation.

(2) * * * The chancery clerk's office may refuse to * * * record a document that does not satisfy subsection (1). However, if * * * a document does not satisfy subsection (1), but is otherwise admitted to record, then all persons shall be on constructive notice of the contents of the * * * document.

(3) * * * If the relative priorities of conflicting claims to real property were established before July 1, 2011, then the

law applicable to those claims at the time those claims were established shall determine their priority.

(4) This section does not require the acknowledgement or verification upon oath or affirmation or prohibit the recording of any of the following filed for record under the Uniform Commercial Code or otherwise specially provided for by law: (a) a financing statement; (b) a security agreement filed as a financing statement; or (c) a continuation statement.

SECTION 32. Section 89-3-7, Mississippi Code of 1972, is amended as follows:

89-3-7. (1) The following long forms of acknowledgment may be used in the case of conveyances or other written instruments affecting real * * * or personal property; and any acknowledgment so taken and certified shall be sufficient to satisfy all requirements of law:

(a) In the case of natural persons acting in their own right:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged that (he) (she) (they) executed the above and foregoing instrument.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(b) In the case of corporations:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged that (he) (she) is _____ of _____, a _____ corporation, and that for and on behalf of the said corporation, and as its act and deed (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(c) In the case of a corporate general partner of a limited partnership:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this_____ day of_____, 20_____, within my jurisdiction, the within named_____, who acknowledged to me that (he) (she) is_____ of_____, a _____ corporation and general partner of_____, a_____ limited partnership, and that for and on behalf of said corporation as general partner of said limited partnership, and as the act and deed of said corporation as general partner of said limited partnership, and as the act and deed of said limited partnership, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited partnership so to do.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(d) In the case of a corporate member of a member-managed limited liability company:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this_____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged to me that (he) (she) is _____ of _____, a _____ corporation and member of _____, a _____ member-managed limited liability company, and that for and on behalf of said corporation as member of said limited liability company, and as the act and deed of said corporation as member of said limited liability company, and as the act and deed of said limited liability company, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited liability company so to do.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(e) In the case of a corporate manager of a manager-managed limited liability company:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this_____ day of_____, 20_____, within my jurisdiction, the within named_____, who acknowledged to me that (he) (she) is_____ of_____, a _____ corporation and manager of_____, a_____ manager-managed limited liability company, and that for and on behalf of said corporation as manager of said limited liability company, and as the act and deed of said corporation as manager of said limited liability company, and as the act and deed of said limited liability company, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited liability company so to do.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(f) In the case of persons acting in representative capacities:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of

_____, 20_____, within my jurisdiction, the within named _____, who acknowledged that (he) (she) is _____ of _____, and that in said representative capacity (he) (she) executed the above and foregoing instrument, after first having been duly authorized so to do.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(g) In the case of proof of execution of the instrument made by a subscribing witness:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, CD, one of the subscribing witnesses to the above and foregoing instrument, who, being first duly sworn, states that (he) (she) saw the within (or above) named AB, whose name is subscribed thereto, sign and deliver the same to EF (or that (he) (she) heard AB acknowledge that (he) (she) signed and delivered the same to EF); and that the

affiant subscribed (his) (her) name as witness thereto in the presence of AB.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(h) In the case of any business organization, foreign or domestic:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed in the above and foregoing instrument and acknowledged that he/she/they executed the same in his/her/their representative capacity(ies), and that by his/her/their signature(s) on the instrument, and as the act and deed of the person(s) or entity(ies) upon behalf of which he/she/they acted, executed the above and foregoing instrument, after first having been duly authorized so to do.

_____

(* * *Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(2) The following short form certificates of notarial acts are sufficient for the purposes indicated if the certificate complies with Section 16(1) and (2) of the Revised Mississippi Law on Notarial Acts as codified:

(a) For an acknowledgment in an individual capacity:

"STATE OF _____

COUNTY OF _____

This record was acknowledged before me on (date) by (name(s) of individual(s)).

_____

(Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(b) For an acknowledgment in a representative capacity:

"STATE OF _____

COUNTY OF _____

This record was acknowledged before me on (date) by (name(s) of individual(s)) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

_____

(Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(c) For a verification on oath or affirmation (jurat):

"STATE OF _____

COUNTY OF _____

Signed and sworn to (or affirmed) before me on (date) by (name(s) of individual(s) making statement).

_____

(Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

(d) For witnessing or attesting a signature:

"STATE OF _____

COUNTY OF _____

Signed or attested before me on (date) by (name(s) of individual(s)).

_____

(Signature of notarial officer)

_____

(Title of office)

My commission expires:

_____"

(Affix official seal, if applicable)

SECTION 33. Section 89-5-8, Mississippi Code of 1972, is amended as follows:

89-5-8. (1) Any affidavit containing a statement relating to the identification, the marital status, the heirship, the relation, the death * * * or the time of death of any person who is a party to * * * a document affecting the title to real * * * property, or any affidavit relating to the identification of any corporation or other legal entity which is a party to * * * a document affecting the title to real * * * property, * * * signed by the affiant and verified upon oath or affirmation before * * * a notarial officer, shall be recordable in the land records in the office of the chancery clerk in the county where the real * * * property is situated.

(2) (a) Notice of a typographical or other minor error in * * * a document affecting the title to real * * * property may be given by recording an affidavit containing a statement of

scrivener's error. If an affidavit is conspicuously identified as an affidavit of scrivener's error, the chancery clerk shall index the affidavit in the general index under the names of the original parties to the * * * document if they are identified in the affidavit, and in the sectional index as provided in the indexing instructions of the affidavit. Notice of the corrective information provided by the affiant is effective upon recordation. An affidavit under this paragraph (a) may be prepared only by an attorney licensed to practice law in this state who prepared any * * * document in the chain of title to the subject real * * * property.

(b) The affidavit of scrivener's error shall be * * * signed by the affiant and verified upon oath or affirmation before * * * a notarial officer, and shall be recordable in the land records in the office of the chancery clerk in the county where the real * * * property is situated.

(c) If requested, the chancery clerk shall make a marginal notation on the * * * document to which the affidavit refers.

(3) Where title to homestead property is in the titled spouse, the nontitled spouse, in lieu of joining the titled spouse in executing a conveyance, mortgage, deed of trust or other encumbrance upon a homestead, may file an affidavit of nonhomestead verified upon oath or affirmation that either: (a) the nontitled spouse, together with the titled spouse, freely and

voluntarily abandoned the old homestead and secured and currently together occupy a new homestead residence; or (b) the nontitled spouse freely and voluntarily separated from the titled spouse with no intent to return to the titled spouse or to reside with the titled spouse, either temporarily or permanently, on the titled spouse's homestead, and the nontitled spouse currently maintains and occupies a separate residence.

(4) A person who knowingly makes or causes to be made a false statement in an affidavit is guilty of perjury and liable for the actual damages suffered or incurred by any person as a result or consequence of the making of or reliance upon the false affidavit. The court may award punitive damages, costs and attorney's fees.

(5) From and after July 1, 2021, an affidavit recorded under this section must include a description of the real property covered by the affidavit.

(* * *6) Any affidavit so recorded, or a certified copy thereof, shall be admissible as evidence in any action involving the * * * document to which it relates or the title to the real * * * property affected by the * * * document and shall be prima facie evidence of the facts stated therein and the marketability of the title to real * * * property.

SECTION 34. Section 25-7-29, Mississippi Code of 1972, which authorizes notaries public to charge fees for certain services, is repealed.

SECTION 35. Sections 25-33-1, 25-33-3, 25-33-5, 25-33-7, 25-33-9, 25-33-11, 25-33-13, 25-33-15, 25-33-17, 25-33-19, 25-33-21, 25-33-23, 25-33-25, 25-33-27, 25-33-29, 25-33-31 and 25-33-33, Mississippi Code of 1972, which authorize the appointment of notaries public by the Governor and prescribe the powers and duties of notaries public, are repealed.

SECTION 36. Section 89-3-3, Mississippi Code of 1972, which provides for acknowledgment and proof necessary for recordation, is repealed.

SECTION 37. Section 89-3-5, Mississippi Code of 1972, which provides for acknowledgments before commissioned officers of United States Armed Forces, is repealed.

SECTION 38. Section 89-3-9, Mississippi Code of 1972, which provides for foreign acknowledgments, is repealed.

SECTION 39. Section 89-3-11, Mississippi Code of 1972, which clarifies the construction of certain foreign acknowledgments, is repealed.

SECTION 40. Section 89-3-13, Mississippi Code of 1972, which provides for acknowledgments or proof made in a foreign country, is repealed.

SECTION 41. Section 89-3-15, Mississippi Code of 1972, which provides for proof in the absence of any grantor or witness, is repealed.

SECTION 42. This act shall take effect and be in force from and after July 1, 2021.

Mississippi Legislature
2020 Regular Session

House Bill 1176

Description: School bus drivers; increase maximum speed limit on interstate highways.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Transportation; Education
2	02/26	(H) DR - TSDP: TR To ED
3	03/03	(H) DR - TSDP: ED To TR
4	03/03	(H) Title Suff Do Pass
5	03/12	(H) Passed {Vote}
6	03/13	(H) Transmitted To Senate
7	05/12	(S) Referred To Highways and Transportation; Education
8	05/27	(S) DR - TSDP: HI To ED
9	05/28	(S) Title Suff Do Pass
10	06/10	(S) Passed {Vote}
11	06/11	(S) Returned For Enrolling
12	06/15	(H) Enrolled Bill Signed
13	06/16	(S) Enrolled Bill Signed
14	06/22	Approved by Governor

Code Section: A 037-0041-0047

----- Additional Information -----

House Committee: Transportation, Education
Senate Committee: Highways and Transportation, Education

Principal Author: Denton
Additional Authors: Harness, Ford (54th), Taylor, Faulkner, Brown (70th)

Title: AN ACT TO AMEND SECTION 37-41-47, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM SPEED LIMIT FOR THE DRIVER OF ANY SCHOOL BUS TRANSPORTING CHILDREN TO SIXTY-FIVE MILES PER HOUR ON INTERSTATE HIGHWAYS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Denton, Harness, Ford (54th), Taylor, Faulkner, Brown (70th)

To: Transportation; Education

HOUSE BILL NO. 1176

AN ACT TO AMEND SECTION 37-41-47, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM SPEED LIMIT FOR THE DRIVER OF ANY SCHOOL BUS TRANSPORTING CHILDREN TO SIXTY-FIVE MILES PER HOUR ON INTERSTATE HIGHWAYS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-41-47, Mississippi Code of 1972, is amended as follows:

31-41-47. It shall be unlawful for a driver of any school bus, whether a public or a contract bus, to drive said bus at a speed greater than forty-five (45) miles per hour while transporting children to and from school on regular routes; however, the maximum speed for interstate highways shall be sixty-five (65) miles per hour. However, any such driver, while operating a school bus on other authorized trips, shall not drive said school bus at a speed greater than fifty (50) miles per hour, except the maximum speed for interstate highways shall be sixty-five (65) miles per hour. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than Twenty-five

Dollars ($25.00) nor more than One Hundred Dollars ($100.00) for each such offense. In addition thereto, upon such conviction, such driver may be discharged from further employment as a school bus driver or carrier and his contract as such may be terminated.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1212

Description: Real Estate Brokers License; revise the requirements to be granted such a license.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H)	Referred To Judiciary A
2	02/27	(H)	Title Suff Do Pass
3	03/10	(H)	Tabled Subject To Call
4	03/11	(H)	Amended
5	03/11	(H)	Passed As Amended {Vote}
6	03/13	(H)	Transmitted To Senate
7	05/11	(S)	Referred To Business and Financial Institutions
8	06/01	(S)	Title Suff Do Pass
9	06/11	(S)	Passed {Vote}
10	06/12	(S)	Returned For Enrolling
11	06/18	(H)	Enrolled Bill Signed
12	06/18	(S)	Enrolled Bill Signed
13	06/25		Approved by Governor

Amendments:

[H] Amendment No 1 ***Adopted*** Voice Vote
[H] Amendment No 2 ***Adopted*** Voice Vote

Code Section: A 073-0035-0007

----- Additional Information -----

House Committee: Judiciary A
Senate Committee: Business and Financial Institutions

Principal Author: White
Additional Authors: Aguirre, Bain, Barnett, Beckett, Bell (21st), Bounds, Burnett, Calvert, Carpenter, Creekmore IV, Deweese, Eure, Evans (45th), Felsher, Ford (54th), Ford (73rd), Hood, Horan, Hudson, Lamar, Mangold, Massengill, McGee, McLean,

Mims, Newman, Oliver, Sanford, Scoggin, Shanks, Smith, Steverson, Yancey, Hale, Boyd

Title: AN ACT TO AMEND SECTION 73-35-7, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIREMENTS TO BE GRANTED A REAL ESTATE BROKERS LICENSE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives White, Aguirre, Bain, Barnett, Beckett, Bell (21st), Bounds, Burnett, Calvert, Carpenter, Creekmore IV, Deweese, Eure, Evans (45th), Felsher, Ford (54th), Ford (73rd), Hood, Horan, Hudson, Lamar, Mangold, Massengill, McGee, McLean, Mims, Newman, Oliver, Sanford, Scoggin, Shanks, Smith, Steverson, Yancey, Hale, Boyd

To: Judiciary A

HOUSE BILL NO. 1212
(As Passed the House)

AN ACT TO AMEND SECTION 73-35-7, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIREMENTS TO BE GRANTED A REAL ESTATE BROKERS LICENSE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-35-7, Mississippi Code of 1972, is amended as follows:

73-35-7. Licenses shall be granted only to persons who present, and to corporations, partnerships, companies or associations whose officers, associates or partners present satisfactory proof to the commission that they are trustworthy and competent to transact the business of a real estate broker or real estate salesperson in such manner as to safeguard the interests of the public. Except as otherwise provided in this section, every person who applies for a resident license as a real estate broker: (a) shall be age twenty-one (21) years or over, and have his legal domicile in the State of Mississippi at the time he applies; (b) shall be subject to the jurisdiction of this state, subject to the income tax laws and other excise laws thereof, subject to the road

and bridge privilege tax laws thereof; (c) shall not be an elector in any other state; (d) shall have held a license as an active real estate salesperson for *twelve (12)* months * * * prior to making application for the broker's examination hereafter specified; (e) shall have successfully completed a minimum of one hundred twenty (120) hours of courses in real estate as hereafter specified; (f) shall have successfully completed the real estate broker's examination as hereafter specified; and (g) shall have successfully been cleared for licensure by the commission's background investigation as provided in Section 73-35-10; and (h) sign a form under penalty of perjury stating that the applicant will not hire any real estate salespersons for thirty-six (36) months from the date of approval of his or her active real estate salesperson's license. The real estate commission shall create a standard form to comply with the requirements of this section. Upon completion of such restriction provided in this paragraph (h) of this section, the real estate broker is authorized to employ any number of real estate salespersons.

The provisions of paragraph (h) shall not apply to an applicant who seeks to hire a real estate salesperson in less than thirty-six (36) months from the date of approval of his or her active real estate salesperson's license. Any person who desires to hire a real estate salesperson in less than thirty-six (36) months from the date of approval of his or her active real estate salesperson's license shall: (a) be age twenty-one (21) years or

over, and have his or her legal domicile in the State of Mississippi at the time he or she applies; (b) be subject to the jurisdiction of this state, subject to the income tax laws and other excise laws thereof, subject to the road and bridge privilege tax laws thereof; (c) not be an elector in any other state; (d) have held a license as an active real estate salesperson for thirty-six (36) months prior to making application for the broker's examination hereafter specified; (e) have successfully completed a minimum of one hundred twenty (120) hours of courses in real estate as hereafter specified; (f) have successfully completed the real estate broker's examination as hereafter specified; and (g) have successfully been cleared for licensure by the commission's background investigation as provided in Section 73-35-10.

An applicant who has not held an active real estate salesperson's license for a period of at least * * * thirty-six (36) months * * * prior to submitting an application shall have successfully completed a minimum of one hundred fifty (150) classroom hours in real estate courses, which courses are acceptable for credit toward a degree at a college or university as approved by the Southern Association of Colleges and Schools.

Every applicant for a resident license as a real estate salesperson shall be age eighteen (18) years or over, shall be a bona fide resident of the State of Mississippi prior to filing his application, shall have successfully completed a minimum of sixty

(60) hours in courses in real estate as hereafter specified, and shall have successfully completed the real estate salesperson's examination as hereafter specified.

The residency requirements set forth in this section shall not apply to those licensees of other states who qualify and obtain nonresident licenses in this state.

The commission is authorized to exempt from such prelicensing educational requirements, in whole or in part, a real estate licensee of another state who desires to obtain a license under this chapter, provided that the prelicensing educational requirements in the other state are determined by the commission to be equivalent to prelicensing educational requirements in this state and provided that such state extends this same privilege or exemption to Mississippi real estate licensees. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1243

Description: Critical infrastructure; define crimes of impeding and trespassing against.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Judiciary B
2	02/25	(H) Title Suff Do Pass
3	03/04	(H) Passed {Vote}
4	03/10	(H) Motion to Reconsider Entered (Bain, Sanford)
5	03/10	(H) Motion to Reconsider Tabled
6	03/10	(H) Transmitted To Senate
7	05/11	(S) Referred To Judiciary, Division A
8	06/02	(S) Title Suff Do Pass
9	06/15	(S) Passed {Vote}
10	06/16	(S) Returned For Enrolling
11	06/18	(H) Enrolled Bill Signed
12	06/18	(S) Enrolled Bill Signed
13	06/25	Approved by Governor

----- Additional Information -----

House Committee: Judiciary B
Senate Committee: Judiciary, Division A

Principal Author: Bain
Additional Authors: Bounds, Powell, Shanks

Title: AN ACT TO CREATE NEW SECTION 97-25-59, MISSISSIPPI CODE OF 1972, TO DEFINE IMPEDING CRITICAL INFRASTRUCTURE AS A MISDEMEANOR OR A TRESPASS, DEPENDING ON THE AMOUNT OF RESULTING DAMAGE OR ECONOMIC LOSS, AND TO DEFINE CRITICAL INFRASTRUCTURE TRESPASS AS A MISDEMEANOR; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Bain, Bounds, Powell, Shanks

To: Judiciary B

HOUSE BILL NO. 1243

AN ACT TO CREATE NEW SECTION 97-25-59, MISSISSIPPI CODE OF 1972, TO DEFINE IMPEDING CRITICAL INFRASTRUCTURE AS A MISDEMEANOR OR A TRESPASS, DEPENDING ON THE AMOUNT OF RESULTING DAMAGE OR ECONOMIC LOSS, AND TO DEFINE CRITICAL INFRASTRUCTURE TRESPASS AS A MISDEMEANOR; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 97-25-59, Mississippi Code of 1972:

97-25-59. (1) **Definition of "critical infrastructure facility."** As used in this act, unless otherwise defined, "critical infrastructure facility" means:

(a) Any portion of an oil, gas, carbon dioxide, hazardous liquid or chemical pipeline or tank that is buried or enclosed by a fence or other physical barrier obviously designed to exclude intruders, or clearly marked with a sign or signs reasonably likely to come to the attention of intruders and indicating that entry is forbidden without authorization.

(b) One (1) of the following, if enclosed by a fence or other physical barrier obviously designed to exclude intruders, or

if clearly marked with a sign or signs reasonably likely to come to the attention of intruders and indicating that entry is forbidden without authorization:

(i) A chemical or polymer manufacturing facility;

(ii) A telecommunications central switching office;

(iii) Wireless or other telecommunications infrastructure, including cell towers, communication towers, telephone poles and lines, cable headend or fiber-optic lines, other than those connecting to individual residences;

(iv) A transmission facility used by a federally licensed radio or television station, a governmental law enforcement or emergency services radio system, or electric utility;

(v) A petroleum refinery;

(vi) A liquid natural gas terminal or storage facility or compressed gas liquids plant or storage facility;

(vii) A natural gas compressor station;

(viii) A hydrocarbon processing plant, including a plant used in the processing, treatment or fractionation of oil, natural gas or natural gas liquids;

(ix) A natural gas distribution utility facility, including transmission facilities, pipeline interconnections, a city gate or town border station, metering stations, piping, a regulator station or a natural gas storage facility;

(x) A crude oil or refined products storage and distribution facility, including storage tanks, valve sites, pipeline interconnections, pump stations, metering stations, pipelines, or piping and truck loading or offloading facilities;

(xi) An above-ground or underground mining facility;

(xii) An electrical power generating facility, substation, switching station, communication facility, electrical control center or electric power lines and associated equipment infrastructure other than those connections to individual residences;

(xiii) A data center or supercomputing center that has an average constant draw of at least one (1) megawatt of electricity;

(xiv) A commercial airport, trucking terminal or other freight transportation facility, including a railroad switching yard, railroad facility or railroad track;

(xv) Any reservoir that supplies water for industrial or municipal supplies or irrigation for multiple users or an irrigation district; or

(xvi) A water intake structure, water treatment facility, wastewater treatment plant, pump station or water lines and associated equipment infrastructure other than those connections to individual residences.

(c) Any site where the construction or improvement of any facility or structure referenced in this section is occurring.

(2) **Impeding critical infrastructure.** (a) A person is guilty of impeding critical infrastructure if he or she intentionally or knowingly impedes the operations of a critical infrastructure facility in a manner not otherwise authorized by law.

(b) Impeding critical infrastructure is:

(i) A misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than One Thousand Dollars ($1,000.00), or both, if the impediment causes damage or economic loss, the cost of which is less than One Thousand Dollars ($1,000.00);

(ii) A felony punishable by imprisonment for not more than seven (7) years, a fine of not more than Ten Thousand Dollars ($10,000.00), or both, if the impediment causes damage or economic loss, the cost of which is One Thousand Dollars ($1,000.00) or more.

(c) If a series of damage or loss results from a single continuing course of conduct, a single violation of this section may be charged and penalties imposed based on the aggregate cost of the damage or loss.

(d) An organization that aids, abets, solicits, compensates, hires, conspires with, commands or procures a person to commit the crime of impeding critical infrastructure is subject

to a fine not to exceed One Hundred Thousand Dollars ($100,000.00), provided that the organization acted with the intent that the crime of impeding critical infrastructure be completed. A critical infrastructure facility may maintain a civil action against an organization for damages suffered as a consequence of a violation of this subsection, including damages for lost profits, whether or not any fine is imposed pursuant to this subsection.

(e) No person shall be liable for a violation of paragraph (a) or (b) of this subsection if the person:

(i) Owns or legally occupies the land upon which the critical infrastructure facility is located and is engaged in conduct that is not inconsistent with the operation of the critical infrastructure facility or that is authorized by an agreement;

(ii) Is lawfully engaged in any regulatory or legal process to which the critical infrastructure facility is subject; or

(iii) Is engaged in conduct arising out of a bona fide dispute about access to land.

(f) As used in this subsection, "impede" means:

(i) To block the operation of or prevent legal access to a critical infrastructure facility or the construction site of a permitted critical infrastructure facility; or

(ii) To damage, destroy, deface or tamper with the equipment of a critical infrastructure facility, whether completed or under construction.

(3) **Critical infrastructure trespass.** (a) A person is guilty of critical infrastructure trespass if he or she enters or remains on or in a critical infrastructure facility or the construction site of a permitted critical infrastructure facility knowing he is not authorized to do so, or by means of false, forged, altered or counterfeit identification, or after having been notified to depart or not to trespass. For purposes of this subsection, notice is given by:

(i) Personal communication to the person by the owner or occupant, or his agent, or by a peace officer;

(ii) Posting of signs reasonably likely to come to the attention of intruders; or

(iii) The presence of fencing or other physical barrier designed to exclude intruders.

(b) Critical infrastructure trespass is a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than One Thousand Dollars ($1,000.00), or both.

(c) No person shall be liable for a violation of paragraph (a) of this subsection if that person:

(i) Owns or legally occupies the land upon which the facility is located and is engaged in conduct that is not

inconsistent with the operation of the critical infrastructure facility or that is authorized by an agreement; or

(ii) Is lawfully engaged in any regulatory or legal process to which the critical infrastructure facility is subject.

(4) Nothing in this section shall be construed to prohibit:

(a) Public demonstrations or other expressions of free speech or free association to the extent such activity is protected under the United States or Mississippi Constitutions;

(b) Lawful commercial or recreational activities conducted in the open or unconfined areas around a pipeline, including, but not limited to, fishing, hunting, boating and birdwatching; or

(c) The lawful exercise of the right of ownership by an owner of real property, including use, enjoyment and disposition within the limits and under the conditions established by law.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1332

Description: State land; revise fee for filing patent for conveyance of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: Passage

History of Actions:

1	02/17	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/09	(H) Passed {Vote}
4	03/10	(H) Transmitted To Senate
5	05/11	(S) Referred To Finance
6	06/09	(S) Title Suff Do Pass
7	06/11	(S) Passed {Vote}
8	06/12	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 029-0001-0081

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Finance

Principal Author: Steverson

Title: AN ACT TO AMEND SECTION 29-1-81, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT OF THE FEE COLLECTED BY THE SECRETARY OF STATE FOR THE FILING OF A PATENT FOR THE CONVEYANCE OF STATE LAND; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Steverson To: Ways and Means

HOUSE BILL NO. 1332

AN ACT TO AMEND SECTION 29-1-81, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT OF THE FEE COLLECTED BY THE SECRETARY OF STATE FOR THE FILING OF A PATENT FOR THE CONVEYANCE OF STATE LAND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 29-1-81, Mississippi Code of 1972, is amended as follows:

29-1-81. (1) All conveyances of land by the state in fee shall be by patent issued from the Secretary of State's office; every patent issued shall be under the great seal, signed by the Secretary of State.

(2) (a) The patent shall be issued by the Office of the Secretary of State and delivered to the patentee. A copy thereof shall be retained by the Secretary of State among the records of his office.

(b) The Secretary of State may file the original patent with the chancery clerk and such filing shall constitute the delivery of the patent to the patentee. Prior to filing the original patent, the Secretary of State shall collect from the

patentee * * * a fee in an amount equal to the fee provided for in Section 25-7-9(1)(b) to cover the cost of filing the patent. Failure of the Secretary of State to file the patent shall not affect its validity.

(3) All contracts of sale of public lands shall be issued from the Secretary of State's office in duplicate; and every contract issued shall be under the great seal, signed by the Secretary of State and countersigned by the Governor.

(4) No more than one-quarter (1/4) section of land shall be embraced in the same patent or contract, except as otherwise provided by law.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

House Bill 1334

Description: MS 811 Law; provide for notifications through the Positive Response Information System (PRIS).

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: January 1, 2021

History of Actions:

1	02/17	(H) Referred To Public Utilities
2	02/27	(H) Title Suff Do Pass
3	03/05	(H) Passed {Vote}
4	03/06	(H) Transmitted To Senate
5	05/11	(S) Referred To Energy
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Amended
8	06/10	(S) Passed As Amended {Vote}
9	06/11	(S) Returned For Concurrence
10	06/16	(H) Concurred in Amend From Senate {Vote}
11	06/18	(H) Enrolled Bill Signed
12	06/18	(S) Enrolled Bill Signed
13	06/25	Approved by Governor

Amendments:

[S] Amendment No 1 ***Adopted*** Voice Vote
Amendment Report for House Bill No. 1334

Code Section: A 077-0013-0009

----- Additional Information -----

House Committee: Public Utilities
Senate Committee: Energy

Principal Author: Steverson

Title: AN ACT TO AMEND SECTION 77-13-9, MISSISSIPPI CODE OF 1972, TO REVISE THE MISSISSIPPI 811 LAW TO PROVIDE FOR CERTAIN NOTIFICATIONS TO OCCUR THROUGH THE POSITIVE RESPONSE INFORMATION SYSTEM (PRIS); AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Steverson To: Public Utilities

HOUSE BILL NO. 1334
(As Sent to Governor)

AN ACT TO AMEND SECTION 77-13-9, MISSISSIPPI CODE OF 1972, TO REVISE THE MISSISSIPPI 811 LAW TO PROVIDE FOR CERTAIN NOTIFICATIONS TO OCCUR THROUGH THE POSITIVE RESPONSE INFORMATION SYSTEM (PRIS); AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-13-9, Mississippi Code of 1972, is amended as follows:

77-13-9. (1) Every person owning or operating underground utility lines or underground facilities shall, upon receiving advance notice of the commencement of excavation, in accordance with Section * * * 77-13-5, make an investigation, and * * * shall report through the use of the PRIS the status of the work performed, within two (2) working days from the time notice is provided in accordance with this chapter to Mississippi 811, Inc., to determine the approximate location of its underground utility lines or underground facilities in the area of the proposed excavation, and shall either: (a) mark the approximate location of underground utility lines and underground facilities in or near the area of the excavation, so as to enable the person engaged in

excavation work to locate the lines and facilities in advance of and during the excavation work and notify the excavator through the PRIS that the facilities have been marked; (b) advise * * * through the PRIS that it has no underground utility lines or underground facilities in the excavation area; or (c) advise * * * through the PRIS that it can locate its underground utility lines or underground facilities in the excavation area only by excavation. If an operator can locate its underground utility lines or underground facilities in the excavation area only by excavation and has given proper notice of such, that operator shall be allowed a reasonable amount of additional time, not to exceed four (4) working days from the day the original notice was provided in accordance with this chapter, to mark the approximate location of the underground utility lines or underground facilities.

(2) In lieu of such marking, the operator may request to be present at the site upon commencement of the excavation, so long as the operator complies within two (2) working days of the receipt of the notice.

(3) When an excavator, upon arriving at an excavation site, sees evidence of unmarked underground utility lines or underground facilities or encounters an unmarked underground utility line or underground facility on an excavation site after excavation has commenced where notice of intent has been made in accordance with the provisions of this chapter, that excavator must immediately

contact Mississippi 811, Inc. All operator(s) thus notified must contact the excavator within four (4) hours and inform the excavator of any of their known underground facilities, active or abandoned, at the site of the excavation.

(4) When marking the approximate location of the facilities, the operator shall follow the color code designated and described herein, unless otherwise provided for by specific administrative rule or regulation promulgated pursuant to this chapter, namely:

UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
Electric	Safety Red
Petroleum Product/Hazardous/ Flammable/Corrosive/Toxic Materials, Product and Steam Lines, Gas or Gaseous Material	High Visibility Safety Yellow
Telecommunications (including fiber optics) and CATV	Safety Alert Orange
Potable Water	Safety Precaution Blue
Reclaimed Water, Irrigation, Slurry Lines	Purple
Sewer and Drain Lines	Safety Green
Temporary Survey Markings	High Visibility Pink
Proposed Excavation	White

(5) All utility facilities installed by owners or operators of utilities on or after January 1, 2010, shall be installed in

such manner that the utility facility may be located by using a generally accepted electronic locating method.

(6) Except for emergency excavations, if, before the expiration of the two (2) working days' waiting period, all identified facility owners or operators have responded to the locate request and all have indicated that their facilities are either not in conflict or have been marked as indicated through the use of the PRIS, then the person planning to perform excavation or blasting shall be authorized to commence work, subject to the other requirements of this section, without waiting the full two (2) working days.

(7) Upon receiving a design information request, the utility owner or operator shall within seven (7) working days from the time notice is provided in accordance with this chapter to Mississippi 811, Inc., respond by one (1) of the following methods: (a) marking the approximate location of its underground utility lines and underground facilities in the area in accordance with subsection (1) of this section; (b) providing to the person making the design information request the best available description of its underground utility lines and underground facilities in the area which may include drawings or other records maintained by the utility owner or operator; or (c) allowing the person making the design information request or any other authorized person to inspect or copy the drawings or other records

for all underground utility lines and utility facilities in the area.

SECTION 2. This act shall take effect and be in force from and after January 1, 2021.

Mississippi Legislature
2020 Regular Session

House Bill 1434

Description: Part-time law enforcement officers; revise salary threshold determination for deputy sheriffs and police officers.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Appropriations
2	03/03	(H) Title Suff Do Pass Comm Sub
3	03/04	(H) Committee Substitute Adopted
4	03/04	(H) Passed {Vote}
5	03/06	(H) Transmitted To Senate
6	05/11	(S) Referred To Appropriations
7	06/04	(S) Title Suff Do Pass
8	06/15	(S) Passed {Vote}
9	06/16	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/18	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 045-0006-0003

----- Additional Information -----

House Committee: Appropriations
Senate Committee: Appropriations

Principal Author: Bounds
Additional Authors: Barnett, Paden, Hines, Johnson, McCray, Foster, Williamson, Hudson, Karriem, Mickens

Title: AN ACT TO AMEND SECTION 45-6-3, MISSISSIPPI CODE OF 1972, TO REVISE THE SALARY THRESHOLD TO DETERMINE STATUS AS A FULL-TIME OR PART-TIME LAW ENFORCEMENT OFFICER FOR DEPUTY SHERIFFS AND MUNICIPAL POLICE OFFICERS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Bounds, Barnett, Paden, Hines, Johnson, McCray, Foster, Williamson, Hudson, Karriem, Mickens

To: Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1434

AN ACT TO AMEND SECTION 45-6-3, MISSISSIPPI CODE OF 1972, TO REVISE THE SALARY THRESHOLD TO DETERMINE STATUS AS A FULL-TIME OR PART-TIME LAW ENFORCEMENT OFFICER FOR DEPUTY SHERIFFS AND MUNICIPAL POLICE OFFICERS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 45-6-3, Mississippi Code of 1972, is amended as follows:

45-6-3. For the purposes of this chapter, the following words shall have the meanings ascribed herein, unless the context shall otherwise require:

(a) "Commission" means the Criminal Justice Planning Commission.

(b) "Board" means the Board on Law Enforcement Officer Standards and Training.

(c) "Law enforcement officer" means any person appointed or employed full time by the state or any political subdivision thereof, or by the state military department as provided in Section 33-1-33, who is duly sworn and vested with authority to bear arms and make arrests, and whose primary

responsibility is the prevention and detection of crime, the apprehension of criminals and the enforcement of the criminal and traffic laws of this state and/or the ordinances of any political subdivision thereof. The term "law enforcement officer" also includes employees of the Department of Corrections who are designated as law enforcement officers by the Commissioner of Corrections pursuant to Section 47-5-54, and includes those district attorney criminal investigators who are designated as law enforcement officers. However, the term "law enforcement officer" shall not mean or include any elected official or any person employed as a legal assistant to a district attorney in this state, compliance agents of the State Board of Pharmacy, or any person or elected official who, subject to approval by the board, provides some criminal justice related services for a law enforcement agency. As used in this paragraph, "appointed or employed full time" means any person, other than a deputy sheriff or municipal law enforcement officer, who is receiving gross compensation for his or her duties as a law enforcement officer of Two Hundred Fifty Dollars ($250.00) or more per week or One Thousand Seventy-five Dollars ($1,075.00) or more per month; for a deputy sheriff or municipal law enforcement officer, the term "appointed for employed full time" means a deputy sheriff or municipal law enforcement officer who is receiving gross compensation for his or her duties as a law enforcement officer of

Four Hundred Seventy-five Dollars ($475.00) or more per week or Two Thousand Fifty Dollars ($2,050.00) or more per month.

(d) "Part-time law enforcement officer" shall mean any person appointed or employed in a part-time, reserve or auxiliary capacity by the state or any political subdivision thereof who is duly sworn and vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime, the apprehension of criminals and the enforcement of the criminal and traffic laws of this state or the ordinances of any political subdivision thereof. However, the term "part-time law enforcement officer" shall not mean or include any person or elected official who, subject to approval by the board, provides some criminal justice related services for a law enforcement agency. As used in this paragraph, "appointed or employed" means any person, other than a deputy sheriff or municipal law enforcement officer, who is performing such duties at any time whether or not they receive any compensation for duties as a law enforcement officer provided that such compensation is less than Two Hundred Fifty Dollars ($250.00) per week or One Thousand Seventy-five Dollars ($1,075.00) per month; for a deputy sheriff or municipal law enforcement officer, the term "appointed or employed" means a deputy sheriff or municipal law enforcement officer who is performing such duties at any time whether or not they receive any compensation for duties as a law enforcement officer provided that such compensation is less than

Four Hundred Seventy-five Dollars ($475.00) per week or Two Thousand Fifty Dollars ($2,050.00) per month.

(e) "Law enforcement trainee" shall mean any person appointed or employed in a full-time, part-time, reserve or auxiliary capacity by the state or any political subdivision thereof for the purposes of completing all the selection and training requirements established by the board to become a law enforcement officer or a part-time law enforcement officer. Such individuals shall not have the authority to use force, bear arms, make arrests or exercise any of the powers of a peace officer unless:

(i) The trainee is under the direct control and supervision of a law enforcement officer;

(ii) The trainee was previously certified under this chapter; or

(iii) The trainee is a certified law enforcement officer in a reciprocating state.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1439

Description: Sixteenth section lands; revise provisions relating to reports and copies of leases to Secretary of State.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Public Property
2	02/25	(H) Title Suff Do Pass Comm Sub
3	03/04	(H) Committee Substitute Adopted
4	03/04	(H) Passed {Vote}
5	03/06	(H) Transmitted To Senate
6	05/11	(S) Referred To Public Property
7	06/04	(S) Title Suff Do Pass
8	06/16	(S) Passed {Vote}
9	06/17	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/18	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 029-0001-0003, A 029-0003-0082

----- Additional Information -----

House Committee: Public Property
Senate Committee: Public Property

Principal Author: Turner

Title: AN ACT TO AMEND SECTION 29-1-3, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL DISTRICT OFFICIALS TO REPORT INFORMATION ON THE MANAGEMENT OF SIXTEENTH SECTION LAND LEASES AS REQUESTED BY THE SECRETARY OF STATE AND TO REVISE THE INFORMATION THAT MUST BE INCLUDED IN SUCH REPORTS; TO AMEND SECTION 29-3-82, MISSISSIPPI CODE OF 1972, TO REVISE THE MANNER IN WHICH CERTAIN SIXTEENTH SECTION LAND LEASES ARE EXECUTED AND PROVIDED TO THE SECRETARY OF STATE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Turner To: Public Property

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1439

AN ACT TO AMEND SECTION 29-1-3, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL DISTRICT OFFICIALS TO REPORT INFORMATION ON THE MANAGEMENT OF SIXTEENTH SECTION LAND LEASES AS REQUESTED BY THE SECRETARY OF STATE AND TO REVISE THE INFORMATION THAT MUST BE INCLUDED IN SUCH REPORTS; TO AMEND SECTION 29-3-82, MISSISSIPPI CODE OF 1972, TO REVISE THE MANNER IN WHICH CERTAIN SIXTEENTH SECTION LAND LEASES ARE EXECUTED AND PROVIDED TO THE SECRETARY OF STATE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 29-1-3, Mississippi Code of 1972, is amended as follows:

29-1-3. (1) The * * * Secretary of State has a supervisory power over sixteenth section lands or lands granted in lieu thereof; and he shall supply to the members of the Legislature, the boards of supervisors, the boards of education and other interested persons information concerning those lands and make such recommendations and suggestions as he may deem proper.

(2) The * * * Secretary of State shall prepare a * * * report which shall include the terms of all leases on sixteenth section school lands, or lands granted in lieu thereof, the condition of the title to all such lands and the current income

from all sources earned by such lands, and he shall maintain such report in his office for examination by any interested person.

(3) Any state, county * * *, municipal or school district official shall supply annually to the * * * Secretary of State such sixteenth section management information as shall be requested by the * * * secretary. Such information shall include, but not be limited to, the following items pertaining to all new leases, rights-of-way, easements and sales of school trust lands: the number of acres in each parcel; the consideration paid for each transaction; the length and expiration of each lease, easement, or right-of-way; and the use to be made of each parcel. The applicable public official shall likewise report information requested by the * * * Secretary of State on schedule of revenue and expenses and principal fund investments. Such information shall include, but not be limited to, the following items: revenues received from various sources; expenses; escrow funds; principal funds; amounts of monies invested; dates of investment; where invested; form of investment; rate of return of each investment; and the amount of revenue earned upon each investment. The information must be submitted in electronic format in the manner required by the Secretary of State.

The action of mandamus shall lie as is provided under Section 29-3-9 to compel the transmittal of information under this subsection by any public official to the best of his knowledge and belief.

SECTION 2. Section 29-3-82, Mississippi Code of 1972, is amended as follows:

29-3-82. The following procedure shall be followed for the leasing of sixteenth section school lands or lands granted in lieu thereof which are not classified as forest land or agricultural land or leased under Section 29-3-99:

(a) Any present leaseholder who desires to renew his lease, or any person who desires to lease sixteenth section or lieu lands, shall make application to the superintendent of education.

(b) Upon receipt of an application for the lease of such lands, the superintendent of education shall promptly give consideration to the application and he shall record his recommendation in writing and present it to the board of education at the next regular meeting of the board.

(c) The board of education, at its meeting, shall consider the application and recommendation of the superintendent of education and may receive any other information which it considers bearing upon the approval of the application and lease of such land. Within thirty (30) days of the receipt of an application, the board shall act on the application and if such action is favorable, the board of education shall submit to the superintendent of education a suggested lease agreement.

(d) The superintendent of education shall then present the lease to the board of supervisors of the county where such

land is located. Within thirty (30) days of the receipt of the lease, the board of supervisors shall accept or reject the proposed rental amount.

(e) If the board of supervisors accepts the lease as proposed by the board of education, the superintendent of education shall execute the lease to the applicant under the terms and conditions set forth in the lease.

(f) If the board of supervisors refuses to accept the rental value set by the board of education in the proposed lease, the rental value of the lease shall be determined under the provisions set forth in Section 29-3-1(2).

(g) All sixteenth section or lieu land leases shall be reduced to writing and signed * * * by the president of the board of supervisors, the president of the board of education and the superintendent of education. The chancery clerk * * * shall record the original on the deed records of the county, abstract the lease as a mesne conveyance, and record it on the minutes of the board of supervisors. The chancery clerk shall charge and collect from the lessee the full recording fees. A certified copy of the lease must be provided to the Secretary of State in the format requested.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1440

Description: Securities registration filings; revise certain provisions regarding fees.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Ways and Means
2	03/03	(H) Title Suff Do Pass
3	03/09	(H) Passed {Vote}
4	03/10	(H) Transmitted To Senate
5	05/11	(S) Referred To Finance
6	06/09	(S) Title Suff Do Pass
7	06/16	(S) Passed {Vote}
8	06/17	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/18	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 075-0071-0305, A 075-0071-0310

----- Additional Information -----

House Committee: Ways and Means
Senate Committee: Finance

Principal Author: Turner

Title: AN ACT TO AMEND SECTION 75-71-305, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT A PERSON FILING A POSTEFFECTIVE AMENDMENT TO INCREASE THE NUMBER OF SECURITIES SPECIFIED TO BE OFFERED OR SOLD SHALL PAY A REGISTRATION FEE WITH RESPECT TO THE ADDITIONAL SECURITIES PROPOSED TO BE OFFERED; TO AMEND SECTION 75-71-310, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE INITIAL FILING FEE FOR A NOTICE FILING WITH RESPECT TO A FEDERAL COVERED SECURITY IS $1,000.00; TO PROVIDE THAT THE FILING FEE FOR A REGISTRATION STATEMENT UNDER SECTION 75-71-305 IS $1,000.00; TO REMOVE THE FILING FEE FOR AN AMENDMENT TO A REGISTRATION STATEMENT TO REGISTER ADDITIONAL SECURITIES; TO PROVIDE THAT

THE FEE FOR ANY RENEWAL REQUIRED UNDER THIS CHAPTER OR RULE OF THE ADMINISTRATOR IS $300.00; TO PROVIDE THAT THE FEE FOR FILING A NOTIFICATION OF COMPLETION, TERMINATION, OR WITHDRAWAL OF AN OFFERING REQUIRED UNDER THIS CHAPTER OR RULE OF THE ADMINISTRATOR IS $50.00; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Turner To: Ways and Means

HOUSE BILL NO. 1440

AN ACT TO AMEND SECTION 75-71-305, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT A PERSON FILING A POSTEFFECTIVE AMENDMENT TO INCREASE THE NUMBER OF SECURITIES SPECIFIED TO BE OFFERED OR SOLD SHALL PAY A REGISTRATION FEE WITH RESPECT TO THE ADDITIONAL SECURITIES PROPOSED TO BE OFFERED; TO AMEND SECTION 75-71-310, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE INITIAL FILING FEE FOR A NOTICE FILING WITH RESPECT TO A FEDERAL COVERED SECURITY IS $1,000.00; TO PROVIDE THAT THE FILING FEE FOR A REGISTRATION STATEMENT UNDER SECTION 75-71-305 IS $1,000.00; TO REMOVE THE FILING FEE FOR AN AMENDMENT TO A REGISTRATION STATEMENT TO REGISTER ADDITIONAL SECURITIES; TO PROVIDE THAT THE FEE FOR ANY RENEWAL REQUIRED UNDER THIS CHAPTER OR RULE OF THE ADMINISTRATOR IS $300.00; TO PROVIDE THAT THE FEE FOR FILING A NOTIFICATION OF COMPLETION, TERMINATION, OR WITHDRAWAL OF AN OFFERING REQUIRED UNDER THIS CHAPTER OR RULE OF THE ADMINISTRATOR IS $50.00; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-71-305, Mississippi Code of 1972, is amended as follows:

75-71-305. **Securities registration filings.** (a) **Who may file.** A registration statement may be filed by the issuer, a person on whose behalf the offering is to be made, or a broker-dealer registered under this chapter.

(b) **Filing fee.** A person filing a registration statement shall pay a filing fee as set forth in Section 75-71-310. This fee shall be nonrefundable * * *.

(c) **Status of offering.** A registration statement filed under Section 75-71-303 or 75-71-304 must specify:

(1) The amount of securities to be offered in this state;

(2) The states in which a registration statement or similar record in connection with the offering has been or is to be filed; and

(3) Any adverse order, judgment, or decree issued in connection with the offering by a state securities regulator, the Securities and Exchange Commission, or a court.

(d) **Incorporation by reference.** A record filed under this chapter or the predecessor act within five (5) years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the record is currently accurate.

(e) **Nonissuer distribution.** In the case of a nonissuer distribution, information or a record may not be required under subsection (i) or Section 75-71-304, unless it is known to the person filing the registration statement or to the person on whose behalf the distribution is to be made or unless it can be furnished by those persons without unreasonable effort or expense.

(f) **Escrow and impoundment.** A rule adopted or order issued under this chapter may require as a condition of registration that a security issued within the previous five (5) years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow; and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The conditions of any escrow or impoundment required under this subsection may be established by rule adopted or order issued under this chapter, but the administrator may not reject a depository institution solely because of its location in another state.

(g) **Form of subscription.** A rule adopted or order issued under this chapter may require as a condition of registration that a security registered under this chapter be sold only on a specified form of subscription or sale contract and that a signed or conformed copy of each contract be filed under this chapter or preserved for a period specified by the rule or order, which may not be longer than five (5) years.

(h) **Effective period.** Except while a stop order is in effect under Section 75-71-306, a registration statement is effective for one (1) year after its effective date, or for any longer period designated in an order under this chapter during which the security is being offered or distributed in a

nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by an underwriter or broker-dealer that is still offering part of an unsold allotment or subscription taken as a participant in the distribution. For the purposes of a nonissuer transaction, all outstanding securities of the same class identified in the registration statement as a security registered under this chapter are considered to be registered while the registration statement is effective. If any securities of the same class are outstanding, a registration statement may not be withdrawn until one (1) year after its effective date. A registration statement may be withdrawn only with the approval of the administrator.

(i) **Periodic reports**. While a registration statement is effective, a rule adopted or order issued under this chapter may require the person that filed the registration statement to file reports, not more often than quarterly, to keep the information or other record in the registration statement reasonably current and to disclose the progress of the offering.

(j) **Posteffective amendments**. A registration statement may be amended after its effective date. The posteffective amendment becomes effective when the administrator so orders. * * * A posteffective amendment relates back to the date of the offering of the additional securities being registered if, within one (1) year after the date of the sale, the amendment is filed and the additional registration fee is paid.

SECTION 2. Section 75-71-310, Mississippi Code of 1972, is amended as follows:

75-71-310. (a) **Required fees for notice filing for federal covered securities under Section 18(b)(2).** The initial filing fee for a notice filing with respect to a federal covered security described in subsection (a) of Section 75-71-302 is * * * One Thousand Dollars ($1,000.00). * * *

(b) **Required fees for notice filings for federal covered securities.** The filing fee for a notice filing with respect to a security that is a federal covered security * * * described in Section 75-71-302(c) and (e) is Three Hundred Dollars ($300.00). The fee for a late filing, which is an additional fee, is one percent (1%) of the dollar amount of the offering sold in the state up to a maximum of Five Thousand Dollars ($5,000.00).

(c) **Required fees for securities registration filings under Section 75-71-305.** * * * The filing fee for a registration statement under Section 75-71-305 is * * * One Thousand Dollars ($1,000.00).

* * *

(d) **Renewals.** The fee for any renewal required under this chapter or rule of the administrator is Three Hundred Dollars ($300.00).

(e) **Termination or Withdrawal.** The fee for filing a notification of completion, termination, or withdrawal of an

offering required under this chapter or rule of the administrator if Fifty Dollars ($50.00).

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1486

Description: Tobacco products; prohibit wholesalers from directly selling the products to retailers.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Judiciary B
2	02/27	(H) Title Suff Do Pass
3	03/10	(H) Passed {Vote}
4	03/11	(H) Transmitted To Senate
5	05/11	(S) Referred To Finance
6	06/04	(S) Title Suff Do Pass
7	06/10	(S) Passed {Vote}
8	06/11	(S) Returned For Enrolling
9	06/15	(H) Enrolled Bill Signed
10	06/16	(S) Enrolled Bill Signed
11	06/22	Approved by Governor

Code Section: BF 075-0023-0037, BF 027-0069-0005, A 027-0069-0009, A 097-0032-0005

----- Additional Information -----

House Committee: Judiciary B
Senate Committee: Finance

Principal Author: Bain

Title: AN ACT TO AMEND SECTION 27-69-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MANUFACTURERS AND WHOLESALE DEALERS IN TOBACCO PRODUCTS SHALL NOT SELL, OFFER TO SELL, OR DELIVER ANY TOBACCO PRODUCTS TO RETAIL DEALERS IN TOBACCO PRODUCTS AND THAT RETAIL DEALERS SHALL NOT BUY OR ACCEPT DELIVERY FOR ANY SUCH PRODUCT FOR ANY CONSIDERATION OTHER THAN CASH OR ON TERMS; TO PROVIDE THAT IF PAYMENT IS NOT RECEIVED WHEN DUE OR PAYMENT IS RETURNED FOR INSUFFICIENT FUNDS, THE VENDOR, WITHIN FIVE BUSINESS DAYS, SHALL NOTIFY THE COMMISSIONER OF

REVENUE AND THE COMMISSIONER OF REVENUE SHALL PROMPTLY NOTIFY ALL MANUFACTURERS AND WHOLESALE DEALERS IN THE STATE OF THE DEFAULT IN PAYMENT AND THAT NO PERSON SHALL SELL ANY TOBACCO PRODUCTS TO THE RETAILER IN DEFAULT ON ANY OTHER TERMS THAN CASH DELIVERY, UNTIL OTHERWISE AUTHORIZED BY THE COMMISSIONER OF REVENUE; TO AUTHORIZE THE COMMISSIONER OF REVENUE TO SUSPEND OR REVOKE THE PERMIT OF A RETAIL DEALER FOR NONPAYMENT; TO AMEND SECTION 97-32-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO BRING FORWARD SECTIONS 27-69-5 AND 75-23-37, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Bain To: Judiciary B

HOUSE BILL NO. 1486

AN ACT TO AMEND SECTION 27-69-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MANUFACTURERS AND WHOLESALE DEALERS IN TOBACCO PRODUCTS SHALL NOT SELL, OFFER TO SELL, OR DELIVER ANY TOBACCO PRODUCTS TO RETAIL DEALERS IN TOBACCO PRODUCTS AND THAT RETAIL DEALERS SHALL NOT BUY OR ACCEPT DELIVERY FOR ANY SUCH PRODUCT FOR ANY CONSIDERATION OTHER THAN CASH OR ON TERMS; TO PROVIDE THAT IF PAYMENT IS NOT RECEIVED WHEN DUE OR PAYMENT IS RETURNED FOR INSUFFICIENT FUNDS, THE VENDOR, WITHIN FIVE BUSINESS DAYS, SHALL NOTIFY THE COMMISSIONER OF REVENUE AND THE COMMISSIONER OF REVENUE SHALL PROMPTLY NOTIFY ALL MANUFACTURERS AND WHOLESALE DEALERS IN THE STATE OF THE DEFAULT IN PAYMENT AND THAT NO PERSON SHALL SELL ANY TOBACCO PRODUCTS TO THE RETAILER IN DEFAULT ON ANY OTHER TERMS THAN CASH DELIVERY, UNTIL OTHERWISE AUTHORIZED BY THE COMMISSIONER OF REVENUE; TO AUTHORIZE THE COMMISSIONER OF REVENUE TO SUSPEND OR REVOKE THE PERMIT OF A RETAIL DEALER FOR NONPAYMENT; TO AMEND SECTION 97-32-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO BRING FORWARD SECTIONS 27-69-5 AND 75-23-37, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-69-9, Mississippi Code of 1972, is amended as follows:

27-69-9. (1) In addition to the penalties imposed in this chapter, after the second offense for any violation, the commissioner may revoke any permit * * * that may have been issued to any person, or persons, violating any provisions of this

chapter, or any rules or regulations promulgated by the commissioner under authority of this chapter.

(2) (a) No manufacturer or wholesale dealer shall sell, offer to sell, or deliver any tobacco products to any retail dealer in this state and no retail dealer in tobacco products shall buy or accept delivery for any such product for any consideration other than cash or on terms. If payment is not received when due or payment is returned for insufficient funds, the vendor, within five (5) business days, shall notify the commissioner thereof and the commissioner shall promptly notify all manufacturers and wholesale dealers in the state of the default in payment and thereafter no person shall sell any tobacco products to the retailer in default on any other terms than cash delivery, until otherwise authorized by the commissioner. Under penalty of suspension of the permit, the retailer who is in default shall pay his obligation in full within thirty (30) days from the date it became due.

(b) Any permittee that violates the provisions of this section may have his permit suspended for not more than thirty (30) days for each offense. Each failure of a retail dealer to make payment for any default before the expiration period of suspension constitutes a separate offense. The commissioner may permanently revoke the permit of any permittee who is suspended for default in payment for more than six (6) months in any twelve-month period.

(c) In addition, the commissioner may require the retail dealer to make payment in cash for all tobacco products subsequently sold or delivered to him.

(3) The commissioner, in the event a permit is suspended or revoked, is required to notify all manufacturers, wholesalers and distributors having a permit required by this chapter, that the permit has been suspended or revoked, and such manufacturer, wholesaler and distributor is henceforth prohibited from selling taxable tobacco to such dealer or retailer. The commissioner may notify manufacturers, wholesalers and distributors as required by this paragraph either manually or electronically and shall specify by rule or regulation the method by which the notification shall be made.

SECTION 2. Section 27-69-5, Mississippi Code of 1972, is brought forward as follows:

27-69-5. (1) Every distributor, wholesaler, dealer or retailer who desires to become engaged in the sale or use of tobacco upon which a tax is required to be paid shall file with the commissioner an application for a permit to engage in such business. The application for a permit shall be filed on blanks to be furnished by the commissioner for that purpose. The application must be subscribed and sworn to by the person owning the business, or having an ownership interest in the business. If the applicant is a corporation, a duly authorized agent shall execute the application. The application shall show the name of

such person, and in case of partnership, the name of each partner, the person's post office address, the location of the place of business to which the permit shall apply, and the nature of the business in which engaged, and any other information the commissioner may require. No distributor, wholesaler, dealer or retailer shall sell any tobacco until the application has been filed, the prescribed permit fee paid, and the permit obtained. Except as otherwise provided in this subsection, the permit shall expire on January 31 of each year. However, a retail permit shall continue in force during the time that the permit holder to whom it is issued continues in the same business at the same location unless such permit is revoked by the commissioner for cause or is revoked pursuant to any provision of Section 27-70-1 et seq., Section 75-23-1 et seq. or the Mississippi Juvenile Tobacco Access Prevention Act in Sections 97-32-1 through 97-32-23.

(2) An application shall be filed, and a permit obtained for each place of business owned or operated by each distributor, wholesaler, dealer or retailer.

(3) Upon receipt of the application and any permit fee provided for in this chapter, the commissioner may issue to every distributor, wholesaler, dealer or retailer, for the place of business designated, a nonassignable permit, authorizing the sale or use of tobacco in the state. The permit shall provide that it is revocable, and may be forfeited or suspended upon violation of any provision of this chapter, the Mississippi Tobacco Youth

Access Prevention Act of 1997, Section 27-70-7 et seq., Section 75-23-1 et seq. or any rule or regulation adopted by the commissioner. If the permit is revoked or suspended, the distributor, wholesaler, dealer or retailer shall not sell any tobacco from the place of business until a new permit is granted, or the suspension of the old permit removed.

(4) A permit cannot be transferred from one person to another, and the permit shall at all times be publicly displayed by the distributor, wholesaler, dealer or retailer in his place of business so as to be seen easily by the public. A permit may be refused to any person previously convicted of violations of this chapter or Section 27-70-1 et seq.

(5) Information contained on a permit may be disclosed to the holder of a wholesaler's permit, to law enforcement agencies of the federal government, state or any political subdivision of the state, and to the Attorney General and federal agencies responsible for administering tobacco laws.

SECTION 3. Section 75-23-37, Mississippi Code of 1972, is brought forward as follows:

75-23-37. (1) Upon finding a violation of this article or a regulation promulgated pursuant to this article, the commission may revoke or suspend the license or licenses of any permittee pursuant to the procedures set forth in Section 27-69-9 and may also impose on the permittee a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail

value of the cigarettes involved or Five Thousand Dollars ($5,000.00).

(2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of this article shall be deemed contraband under Sections 27-69-53 through 27-69-57 and shall be subject to seizure and forfeiture as provided therein. Such cigarettes so seized and forfeited shall be destroyed. Such cigarettes shall be deemed contraband whether the violation of this article is knowing or otherwise.

SECTION 4. Section 97-32-5, Mississippi Code of 1972, is amended as follows:

97-32-5. It shall be unlawful for any person, or retailer, to sell, barter, deliver or give tobacco products to any individual under eighteen (18) years of age unless the individual under eighteen (18) years of age holds a retailer's license to sell tobacco under Section 27-69-1 et seq., Mississippi Code of 1972.

It shall be an absolute affirmative defense that the person selling, bartering, delivering or giving tobacco products over the counter in a retail establishment to an individual under eighteen (18) years of age in violation of this article had requested and examined a government-issued photographic identification from such person establishing his age as at least eighteen (18) years prior to selling such person a tobacco product. The failure of a

seller, barterer, deliverer or giver of tobacco products over the counter in a retail establishment to request and examine photographic identification from a person under eighteen (18) years of age prior to the sale of a tobacco product to such person if the individual is not known to the seller, barterer, deliverer or giver of the tobacco product to be over the age of eighteen (18) years, shall be construed against the seller, barterer, deliverer or giver and form a conclusive basis for the seller's violation of this section.

It shall be an absolute affirmative defense that the person or entity giving tobacco products through the mail to an individual under eighteen (18) years of age in violation of this article had requested and received documentary or written evidence from such person purportedly establishing his age to be at least eighteen (18) years of age.

Any person who violates this section shall be liable as follows: For a first conviction, a fine of Fifty Dollars ($50.00); for a second conviction, a fine of Seventy-five Dollars ($75.00); and for all subsequent convictions, a fine of One Hundred Fifty Dollars ($150.00) shall be imposed.

Any person found in violation of this section shall be issued a citation and the holder of the retailer permit shall be sent notification of this citation by registered mail by the law enforcement agency issuing the citation. Notification shall include the opportunity for hearing before the appropriate court.

For a first conviction, the retailer shall be sent a warning letter informing him of the retailer's responsibility in the selling of tobacco products. For a second conviction, the retailer, or retailer's designee, shall be required to enroll in and complete a "Retailer Tobacco Education Program."

For a third or subsequent violation of this section by any retailer, within one (1) year of the two (2) prior violations, any retailer's permit issued pursuant to Section 27-69-1 et seq., Mississippi Code of 1972, may be revoked or suspended for a period of at least one (1) year after notice and opportunity for hearing. If said permit is revoked by the * * * Department of Revenue, the retailer may not reapply for a permit to sell tobacco for a period of six (6) months. For the purposes of this section, "subsequent violations" are those committed at the same place of business.

It is the responsibility of all law enforcement officers and law enforcement agencies of this state to ensure that the provisions of this article are enforced.

It shall not be considered a violation of this section on the part of any law enforcement officer or person under eighteen (18) years of age for any law enforcement officer of this state to use persons under eighteen (18) years of age to purchase or attempt to purchase tobacco products for the purpose of monitoring compliance with this section, as long as those persons are supervised by duly authorized law enforcement agency officials.

Any law enforcement agency conducting enforcement efforts undertaken pursuant to this article shall prepare a report as prescribed by the Attorney General which includes the number of unannounced inspections conducted by the agency, a summary of enforcement actions taken pursuant to this article, the name and permit number of the retailer pursuant to Section 27-69-1 et seq., Mississippi Code of 1972, and final judicial disposition on all enforcement actions. Reports shall be forwarded to the Office of the Attorney General within twenty (20) working days of the final judicial disposition.

On notification from local law enforcement that a retailer has violated this article so as to warrant a revocation of the retailer's permit, the Attorney General shall notify in writing the * * * Department of Revenue within twenty (20) working days.

In accordance with the procedures of Section 27-69-9, Mississippi Code of 1972, the * * * Department of Revenue shall initiate revocation procedures of the retailer's permit. The Office of the Attorney General shall provide legal assistance in revocation procedures when requested by the * * * Department of Revenue.

SECTION 5. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1500

Description: Board on law enforcement officer standards and training; authorize to consider certain military training when determining qualification of applicant.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Judiciary B
2	02/27	(H) Title Suff Do Pass
3	03/05	(H) Passed {Vote}
4	03/06	(H) Transmitted To Senate
5	05/12	(S) Referred To Veterans and Military Affairs; Judiciary, Division B
6	06/01	(S) DR - TSDP: VM To JB
7	06/03	(S) Title Suff Do Pass
8	06/11	(S) Passed {Vote}
9	06/12	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/18	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 045-0006-0011

----- Additional Information -----

House Committee: Judiciary B
Senate Committee: Veterans and Military Affairs, Judiciary, Division B

Principal Author: Ford (73rd)
Additional Authors: Owen

Title: AN ACT TO AMEND SECTION 45-6-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD ON LAW ENFORCEMENT OFFICER STANDARDS AND TRAINING TO CONSIDER CERTAIN MILITARY TRAINING WHEN DETERMINING WHETHER AN APPLICANT HAS SATISFIED CERTAIN REQUIREMENTS IN ORDER TO BE QUALIFIED FOR APPOINTMENT OR EMPLOYMENT AS A LAW ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 1500

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Ford (73rd), Owen To: Judiciary B

HOUSE BILL NO. 1500

AN ACT TO AMEND SECTION 45-6-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD ON LAW ENFORCEMENT OFFICER STANDARDS AND TRAINING TO CONSIDER CERTAIN MILITARY TRAINING WHEN DETERMINING WHETHER AN APPLICANT HAS SATISFIED CERTAIN REQUIREMENTS IN ORDER TO BE QUALIFIED FOR APPOINTMENT OR EMPLOYMENT AS A LAW ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 45-6-11, Mississippi Code of 1972, is amended as follows:

45-6-11. (1) Law enforcement officers already serving under permanent appointment on July 1, 1981, and personnel of the Division of Community Services under Section 47-7-9, Mississippi Code of 1972, serving on July 1, 1994, shall not be required to meet any requirement of subsections (3) and (4) of this section as a condition of continued employment; nor shall failure of any such law enforcement officer to fulfill such requirements make that person ineligible for any promotional examination for which that person is otherwise eligible. Provided, however, if any law enforcement officer certified under the provisions of this chapter leaves his employment as such and does not become employed as a

law enforcement officer within two (2) years from the date of termination of his prior employment, he shall be required to comply with board policy as to rehiring standards in order to be employed as a law enforcement officer; except, that, if any law enforcement officer certified under this chapter leaves his employment as such to serve as a sheriff, he may be employed as a law enforcement officer after he has completed his service as a sheriff without being required to comply with board policy as to rehiring standards. Part-time law enforcement officers serving on or before July 1, 1998, shall have until July 1, 2001, to obtain certification as a part-time officer.

(2) (a) Any person who has twenty (20) years of law enforcement experience and who is eligible to be certified under this section shall be eligible for recertification after leaving law enforcement on the same basis as someone who has taken the basic training course. Application to the board to qualify under this paragraph shall be made no later than June 30, 1993.

(b) Any person who has twenty-five (25) years of law enforcement experience, whether as a part-time, full-time, reserve or auxiliary officer, and who has received certification as a part-time officer, may be certified as a law enforcement officer as defined in Section 45-6-3(c) without having to meet further requirements. Application to the board to qualify under this paragraph shall be made no later than June 30, 2009.

(3) (a) No person shall be appointed or employed as a law enforcement officer or a part-time law enforcement officer unless that person has been certified as being qualified under the provisions of subsection (4) of this section.

(b) No person shall be appointed or employed as a law enforcement trainee in a full-time capacity by any law enforcement unit for a period to exceed one (1) year. No person shall be appointed or employed as a law enforcement trainee in a part-time, reserve or auxiliary capacity by any law enforcement unit for a period to exceed two (2) years. The prohibition against the appointment or employment of a law enforcement trainee in a full-time capacity for a period not to exceed one (1) year or a part-time, reserve or auxiliary capacity for a period not to exceed two (2) years may not be nullified by terminating the appointment or employment of such a person before the expiration of the time period and then rehiring the person for another period. Any person, who, due to illness or other events beyond his control, could not attend the required school or training as scheduled, may serve with full pay and benefits in such a capacity until he can attend the required school or training.

(c) No person shall serve as a law enforcement officer in any full-time, part-time, reserve or auxiliary capacity during a period when that person's certification has been suspended, cancelled or recalled pursuant to the provisions of this chapter.

(4) In addition to the requirements of subsections (3), (7) and (8) of this section, the board, by rules and regulations consistent with other provisions of law, shall fix other qualifications for the employment of law enforcement officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of law enforcement officers, and the board shall prescribe the means for presenting evidence of fulfillment of these requirements. Additionally, the board shall fix qualifications for the appointment or employment of part-time law enforcement officers to essentially the same standards and requirements as law enforcement officers. The board shall develop and implement a part-time law enforcement officer training program that meets the same performance objectives and has essentially the same or similar content as the programs approved by the board for full-time law enforcement officers and the board shall provide that such training shall be available locally and held at times convenient to the persons required to receive such training.

(5) Any elected sheriff, constable, deputy or chief of police may apply for certification. Such certification shall be granted at the request of the elected official after providing evidence of satisfaction of the requirements of subsections (3) and (4) of this section. Certification granted to such elected

officials shall be granted under the same standards and conditions as established by law enforcement officers and shall be subject to recall as in subsection (7) of this section.

(6) The board shall issue a certificate evidencing satisfaction of the requirements of subsections (3) and (4) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction or military training equivalent in content and quality to that required by the board for approved law enforcement officer education and training programs in this state, and has satisfactorily passed any and all diagnostic testing and evaluation as required by the board to ensure competency.

(7) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

(a) The certificate was issued by administrative error;

(b) The certificate was obtained through misrepresentation or fraud;

(c) The holder has been convicted of any crime involving moral turpitude;

(d) The holder has been convicted of a felony;

(e) The holder has committed an act of malfeasance or has been dismissed from his employing law enforcement agency; or

(f) Other due cause as determined by the board.

(8) When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a law enforcement officer or a part-time law enforcement officer, notice and opportunity for a hearing shall be provided in accordance with law prior to such reprimand, suspension or revocation.

(9) Any full- or part-time law enforcement officer aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from the final order of the board. Such appeals must be filed within thirty (30) days of the final order of the board.

(10) Any full- or part-time law enforcement officer whose certification has been cancelled pursuant to this chapter may reapply for certification, but not sooner than two (2) years after the date on which the order of the board cancelling such certification becomes final.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1520

Description: Hospice; allow medical directors to prescribe controlled substances for pain for terminally ill patients without in-person visit.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/17	(H)	Referred To Public Health and Human Services
2	02/27	(H)	Title Suff Do Pass Comm Sub
3	03/05	(H)	Committee Substitute Adopted
4	03/05	(H)	Amended
5	03/05	(H)	Passed As Amended {Vote}
6	03/09	(H)	Transmitted To Senate
7	05/11	(S)	Referred To Public Health and Welfare
8	06/02	(S)	Title Suff Do Pass
9	06/15	(S)	Passed {Vote}
10	06/16	(S)	Returned For Enrolling
11	06/18	(H)	Enrolled Bill Signed
12	06/19	(S)	Enrolled Bill Signed
13	06/25		Approved by Governor

Amendments:

[H] Amendment No 1 (Cmte Sub)***Adopted*** Voice Vote

Code Section: A 041-0029-0137

----- Additional Information -----

House Committee: Public Health and Human Services
Senate Committee: Public Health and Welfare

Principal Author: Currie
Additional Authors: Bounds, Anthony

Title: AN ACT TO AUTHORIZE MEDICAL DIRECTORS OF HOSPICES TO PRESCRIBE CONTROLLED SUBSTANCES FOR PATIENTS OF THE HOSPICE FOR TERMINAL DISEASE PAIN WITHOUT HAVING AN IN-PERSON FACE-

TO-FACE VISIT WITH A PATIENT BEFORE ISSUING A PRESCRIPTION; TO AMEND SECTION 41-29-137, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 1520

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Currie, Bounds, Anthony To: Public Health and Human Services

HOUSE BILL NO. 1520
(As Passed the House)

AN ACT TO AUTHORIZE MEDICAL DIRECTORS OF HOSPICES TO PRESCRIBE CONTROLLED SUBSTANCES FOR PATIENTS OF THE HOSPICE FOR TERMINAL DISEASE PAIN WITHOUT HAVING AN IN-PERSON FACE-TO-FACE VISIT WITH A PATIENT BEFORE ISSUING A PRESCRIPTION; TO AMEND SECTION 41-29-137, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The medical director of a licensed hospice, in his or her discretion, may prescribe controlled substances for a patient of the hospice for terminal disease pain without having an in-person face-to-face visit with the patient before issuing the prescription. The provisions of this section supersede the provisions of any rule or regulation of a licensing agency to the contrary. This section shall stand repealed on July 1, 2021.

SECTION 2. Section 41-29-137, Mississippi Code of 1972, is amended as follows:

41-29-137. (a) (1) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II, as set out in Section 41-29-115, may be dispensed without the written valid prescription

of a practitioner. A practitioner shall keep a record of all controlled substances in Schedule I, II and III administered, dispensed or professionally used by him otherwise than by prescription.

(2) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed upon the oral valid prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Section 41-29-133. No prescription for a Schedule II substance may be refilled unless renewed by prescription issued by a licensed medical doctor.

(b) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, as set out in Sections 41-29-117 and 41-29-119, shall not be dispensed without a written or oral valid prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.

(c) A controlled substance included in Schedule V, as set out in Section 41-29-121, shall not be distributed or dispensed other than for a medical purpose.

(d) An optometrist certified to prescribe and use therapeutic pharmaceutical agents under Sections 73-19-153 through 73-19-165 shall be authorized to prescribe oral analgesic

controlled substances in Schedule IV or V, as pertains to treatment and management of eye disease by written prescription only.

(e) Administration by injection of any pharmaceutical product authorized in this section is expressly prohibited except when dispensed directly by a practitioner other than a pharmacy.

(f) (1) For the purposes of this article, Title 73, Chapter 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it pertains to prescriptions for controlled substances, a "valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by:

(A) A practitioner who has conducted at least one (1) in-person medical evaluation of the patient, except as otherwise authorized by Section 1 of this act through June 30, 2021; or

(B) A covering practitioner.

(2) (A) "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

(B) "Covering practitioner" means a practitioner who conducts a medical evaluation other than an in-person medical evaluation at the request of a practitioner who has conducted at least one (1) in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine

within the previous twenty-four (24) months and who is temporarily unavailable to conduct the evaluation of the patient.

(3) A prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire is not a valid prescription.

(4) Nothing in this subsection (* * *f) shall apply to:

(A) A prescription issued by a practitioner engaged in the practice of telemedicine as authorized under state or federal law; or

(B) The dispensing or selling of a controlled substance pursuant to practices as determined by the United States Attorney General by regulation.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

House Bill 1523

Description: Poll managers; remove limitation on additional that election commissioners may appoint.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Apportionment and Elections
2	02/27	(H) Title Suff Do Pass
3	03/05	(H) Passed {Vote}
4	03/06	(H) Transmitted To Senate
5	05/11	(S) Referred To Elections
6	06/08	(S) Title Suff Do Pass
7	06/11	(S) Passed {Vote}
8	06/12	(S) Returned For Enrolling
9	06/18	(H) Enrolled Bill Signed
10	06/19	(S) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 023-0015-0235

----- Additional Information -----

House Committee: Apportionment and Elections
Senate Committee: Elections

Principal Author: Beckett
Additional Authors: Anthony

Title: AN ACT TO AMEND SECTION 23-15-235, MISSISSIPPI CODE OF 1972, TO REMOVE THE LIMITATION ON THE ADDITIONAL POLL MANAGERS THAT THE ELECTION COMMISSIONERS MAY APPOINT FOR EACH 1,000 REGISTERED VOTERS IN EACH VOTING PRECINCT ABOVE THE FIRST 500; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI HB 1523

MISSISSIPPI LEGISLATURE — REGULAR SESSION 2020

By: Representatives Beckett, Anthony

To: Apportionment and Elections

HOUSE BILL NO. 1523

AN ACT TO AMEND SECTION 23-15-235, MISSISSIPPI CODE OF 1972, TO REMOVE THE LIMITATION ON THE ADDITIONAL POLL MANAGERS THAT THE ELECTION COMMISSIONERS MAY APPOINT FOR EACH 1,000 REGISTERED VOTERS IN EACH VOTING PRECINCT ABOVE THE FIRST 500; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 23-15-235, Mississippi Code of 1972, is amended as follows:

23-15-235. In addition to the poll managers appointed pursuant to Section 23-15-231, for the first five hundred (500) registered voters in each voting precinct, the election commissioners may, in their discretion, appoint not more than three (3) persons to serve as poll managers of the election. The election commissioners may, in their discretion, appoint * * * additional persons to serve as poll managers for each one thousand (1,000) registered voters or fraction thereof in each voting precinct above the first five hundred (500), * * * as determined necessary by the election commissioners and approved by the board of supervisors. Any person appointed as poll manager shall be a

qualified elector of the county in which the voting precinct is located.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1577

Description: Hunter safety course; authorize school districts to offer as part of their curriculum.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(H) Referred To Wildlife, Fisheries and Parks; Education
2	03/02	(H) DR - TSDP: WI To ED
3	03/03	(H) DR - TSDP: ED To WI
4	03/03	(H) Title Suff Do Pass
5	03/05	(H) Passed {Vote}
6	03/06	(H) Transmitted To Senate
7	05/12	(S) Referred To Education; Wildlife, Fisheries and Parks
8	05/28	(S) DR - TSDP: ED To WI
9	06/04	(S) Title Suff Do Pass
10	06/15	(S) Passed {Vote}
11	06/16	(S) Returned For Enrolling
12	06/18	(H) Enrolled Bill Signed
13	06/19	(S) Enrolled Bill Signed
14	06/25	Approved by Governor

Code Section: A 049-0007-0020

----- Additional Information -----

House Committee: Wildlife, Fisheries and Parks, Education
Senate Committee: Education, Wildlife, Fisheries and Parks

Principal Author: Gunn
Additional Authors: Arnold, Miles

Title: AN ACT TO AUTHORIZE PUBLIC SCHOOL DISTRICTS TO OFFER A COURSE IN HUNTER SAFETY AS A COMPONENT OF ITS CURRICULUM FOR STUDENTS IN GRADES 7 THROUGH 12; TO PRESCRIBE REQUIREMENTS FOR THE COURSE INSTRUCTOR; TO PROHIBIT THE USE OF OPERABLE WEAPONS

AND LIVE AMMUNITION IN THE COURSE; TO AUTHORIZE PARENTS TO OPT OUT A STUDENT'S PARTICIPATION IN THE COURSE; TO AMEND SECTION 49-7-20, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representatives Gunn, Arnold, Miles

To: Wildlife, Fisheries and Parks; Education

HOUSE BILL NO. 1577

AN ACT TO AUTHORIZE PUBLIC SCHOOL DISTRICTS TO OFFER A COURSE IN HUNTER SAFETY AS A COMPONENT OF ITS CURRICULUM FOR STUDENTS IN GRADES 7 THROUGH 12; TO PRESCRIBE REQUIREMENTS FOR THE COURSE INSTRUCTOR; TO PROHIBIT THE USE OF OPERABLE WEAPONS AND LIVE AMMUNITION IN THE COURSE; TO AUTHORIZE PARENTS TO OPT OUT A STUDENT'S PARTICIPATION IN THE COURSE; TO AMEND SECTION 49-7-20, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) Beginning in the 2020-2021 school year, each school district may offer a course on hunter safety as a component of its curriculum during the day, or as part of an after-school program for students in Grades 7 through 12. The State Board of Education, in consultation with the Mississippi Department of Wildlife, Fisheries and Parks, may prepare and make available to school boards resources on hunter safety that may be used as guidelines for the development of courses authorized under this section.

(2) The hunter safety course must be designed to expose students to firearm safety and to provide, at a minimum, instruction in:

(a) The capabilities of firearms;

(b) Respecting and handling firearms responsibly; and

(c) Managing and controlling firearms.

(3) The hunter safety course must be taught by a well trained individual who is credentialed to provide instruction in the safe handling of firearms. The school district may arrange for any employee of the district or alternatively, an individual who is not employed by the district, to teach the hunter safety course, provided that the person administering the instruction holds certification or another credential that evidences the person's training to provide firearms safety instruction.

(4) The hunter safety course required under this section may not be construed to authorize a student, school district employee, firearms safety instructor or any other person who is not otherwise permitted by law or school board policy to carry a weapon on school property or possess a firearm on school property. In training students to handle firearms properly, operable weapons and live ammunition may not be used. Access by any person to the inoperable weapons and ammunition used in the course must be limited to those times that students are in class under the supervision of both the firearms safety instructor and physical education teacher.

(5) No less than one (1) week before the course required under this section is scheduled to be taught, the school district must provide written notice to the parents of those students. The

notice must inform the parents that a hunter safety course, including training in the proper handling of firearms, will be taught to students as part of the physical education class. The notice must advise parents of the right and the appropriate process to review the materials to be used in the course. Upon the request of any parent, the school must excuse the parent's child from the hunter safety course without detriment to the student.

SECTION 2. Section 49-7-20, Mississippi Code of 1972, is amended as follows:

49-7-20. (1) It is unlawful for any person born on or after January 1, 1972, to procure any Mississippi hunting license, except a resident apprentice hunting license and a resident combination small game hunting and fishing license, unless the person has been issued certification of satisfactory completion of a hunter education course approved by the department.

(2) It is unlawful for any person to issue any Mississippi hunting license, except a resident apprentice hunting license and resident combination small game hunting and fishing license, to any person born on or after January 1, 1972, unless the purchaser has provided valid certification of satisfactory completion of a hunter education course approved by the department.

(3) It is unlawful for any person to fraudulently obtain a hunter education certification.

(4) The department may revoke any hunting license or hunter education certification upon determination that the holder was not entitled to issuance or obtained the license or certification by any fraudulent means.

(5) It is unlawful for any person born on or after January 1, 1972, to hunt with a resident combination small game hunting and fishing license, unless the person has been issued certification of satisfactory completion of a hunter education course approved by the department.

(6) The hunter education course required for purposes of licensure shall be deemed to be satisfied by any student who enrolls in and successfully completes a school-based hunter safety course provided in accordance with Section 1 of this act.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

House Bill 1705

Description: Appropriation; reappropriation, DFA - Bureau of Building; FY21.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: Appropriation
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	05/26	(H) Referred To Appropriations
2	05/27	(H) Title Suff Do Pass
3	05/27	(H) Passed {Vote}
4	05/27	(H) Immediate Release
5	05/27	(H) Transmitted To Senate
6	06/03	(S) Referred To Appropriations
7	06/11	(S) Title Suff Do Pass
8	06/12	(S) Passed {Vote}
9	06/15	(S) Returned For Enrolling
10	06/18	(H) Enrolled Bill Signed
11	06/19	(S) Enrolled Bill Signed
12	06/25	Approved by Governor

----- Additional Information -----

House Committee: Appropriations
Senate Committee: Appropriations

Principal Author: Read

Title: AN ACT MAKING A REAPPROPRIATION TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO REAUTHORIZE THE EXPENDITURE OF SPECIAL FUNDS PREVIOUSLY APPROPRIATED FOR CONSTRUCTION AND/OR REPAIR AND RENOVATION PROJECTS AT VARIOUS STATE AGENCIES AND INSTITUTIONS, FOR FISCAL YEAR 2021.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Representative Read To: Appropriations

HOUSE BILL NO. 1705
(As Sent to Governor)

AN ACT MAKING A REAPPROPRIATION TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO REAUTHORIZE THE EXPENDITURE OF SPECIAL FUNDS PREVIOUSLY APPROPRIATED FOR CONSTRUCTION AND/OR REPAIR AND RENOVATION PROJECTS AT VARIOUS STATE AGENCIES AND INSTITUTIONS, FOR FISCAL YEAR 2021.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following sum, or so much thereof as may be necessary, is reappropriated out of any money in the State Treasury to the credit of Fund No. 3393100000 to the Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, for the purpose of reauthorizing the expenditure of funds previously appropriated for construction and/or repair and renovation projects at various state agencies and institutions, as authorized in House Bill No. 1666, 2019 Regular Session, for the fiscal year beginning July 1, 2020, and ending June 30, 2021.....$ 56,534,630.00.

This reappropriation is made for the purpose of reauthorizing the expenditure of special funds for construction and/or repair

and renovation projects at various state agencies and institutions that had been authorized by the Legislature in prior fiscal years.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended exceed the unexpended balance as of June 30, 2020, or change the purpose for which the funds were originally authorized.

SECTION 2. The following sum, or so much thereof as may be necessary, is reappropriated out of any money in any special fund in the State Treasury to the credit of Fund 3390200000 to the Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, as authorized in HB 1666, 2019 Regular Session; HB 1616, 2018 Regular Session; SB 3015, 2017 Regular Session; SB 2911, 2016 Regular Session; SB 2902, 2014 Regular Session; and SB 2896, 2013 Regular Session, for the fiscal year beginning July 1, 2020, and ending June 30, 2021.....$ 1,989,071.00.

This reappropriation is made for the purpose of reauthorizing the expenditure of Special Funds previously appropriated by the Legislature in prior fiscal years for construction and/or repair and renovation projects at various state agencies and institutions.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended exceed the unexpended balance as of June 30, 2020, or change the purpose of which the funds were originally authorized.

SECTION 3. The following sum, or so much thereof as may be necessary, is reappropriated out of any money in any special fund in the State Treasury to the credit of Fund 3390300000 to the Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, as authorized in HB 1666, 2019 Regular Session, for the fiscal year beginning July 1, 2020, and ending June 30, 2021.....
.....$ 7,584,092.00.

This reappropriation is made for the purpose of reauthorizing the expenditure of Special Funds previously appropriated by the Legislature in prior fiscal years for construction and/or repair and renovation projects at the Institutions of Higher Learning and Community and Junior Colleges and various state agencies and institutions.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended exceed the unexpended balance as of June 30, 2020, or change the purpose of which the funds were originally authorized.

SECTION 4. The following sum, or so much thereof as may be necessary, is reappropriated out of any money in the State Treasury to the credit of Fund No. 6493C00000 to the Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, as authorized in HB 1666, 2019 Regular Session; HB 1616, 2018 Regular Session; and SB 3015,

2017 Regular Session, for the fiscal year beginning July 1, 2020, and ending June 30, 2021.....$ 1,422,248.00.

This reappropriation is made for the purpose of reauthorizing the expenditure of Capital Expense Funds previously appropriated by the Legislature in prior fiscal years for upgrades and renovation of the water treatment facility at the Alcorn State University and related purposes.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended exceed the unexpended balance as of June 30, 2020, or change the purpose of which the funds were originally authorized.

SECTION 5. The following sum, or so much thereof as may be necessary, is reappropriated out of any money in any special fund in the State Treasury to the credit of Fund 6493200000 to the Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, as authorized in House Bill 1667, 2019 Regular Session for the fiscal year beginning July 1, 2020, and ending June 30, 2021..... .....$ 298,726.00.

This reappropriation is made for the purpose of reauthorizing the expenditure of Capital Expense Funds previously appropriated by the Legislature in the prior fiscal year for improvements for the Law Enforcement Officer's Training Academy.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended

exceed the unexpended balance as of June 30, 2020, or change the purpose of which the funds were originally authorized.

SECTION 6. The following sum, or so much thereof as may be necessary, is reappropriated out of any money in the State Treasury to the credit of Fund No. 6493300000 to the Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, as authorized in Senate Bill 3049, 2019 Regular Session for the fiscal year beginning July 1, 2020, and ending June 30, 2021.....$ 10,906,334.00.

This reappropriation is made for the purpose of reauthorizing the expenditure of Capital Expense funds for construction and/or repair, renovation, and improvements of state-owned properties, universities and community colleges that had been authorized by the Legislature in a prior fiscal year.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended exceed the unexpended balance as of June 30, 2020, or change the purpose of which the funds were originally authorized.

SECTION 7. The Bureau of Building, Grounds and Real Property Management of the Office of General Services is expressly authorized and empowered to receive, budget and expend any state, local or other source funds designated for supplemental funding of construction and/or repair and renovation projects.

SECTION 8. The money herein appropriated shall be paid by the State Treasurer out of any money in the State Treasury to the

credit of the proper fund or funds as set forth in this act, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his warrants upon requisitions signed by the proper person, officer or officers, in the manner provided by law.

SECTION 9. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2061

Description: Arrest warrant; opportunity for probable cause hearing before issuance.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/16	(S) Referred To Judiciary, Division B
2	02/19	(S) Title Suff Do Pass
3	03/12	(S) Passed {Vote}
4	03/13	(S) Transmitted To House
5	03/25	(H) Referred To Judiciary B
6	06/02	(H) Title Suff Do Pass
7	06/10	(H) Passed {Vote}
8	06/11	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 099-0003-0028

----- Additional Information -----

Senate Committee: Judiciary, Division B
House Committee: Judiciary B

Principal Author: Hopson

Title: AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROBABLE CAUSE HEARING UPON A CRIMINAL AFFIDAVIT BEFORE ISSUANCE OF ANY ARREST WARRANT AT THE DISCRETION OF THE COURT; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI SB 2061

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Hopson To: Judiciary, Division B

SENATE BILL NO. 2061

AN ACT TO AMEND SECTION 99-3-28, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROBABLE CAUSE HEARING UPON A CRIMINAL AFFIDAVIT BEFORE ISSUANCE OF ANY ARREST WARRANT AT THE DISCRETION OF THE COURT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 99-3-28, Mississippi Code of 1972, is amended as follows:

99-3-28. (1) (a) (i) Except as provided in subsection (2) of this section, before an arrest warrant shall be issued against any teacher who is a licensed public school employee as defined in Section 37-9-1, a certified jail officer as defined in Section 45-4-9, a counselor at an adolescent opportunity program created under Section 43-27-201 et seq., or a sworn law enforcement officer within this state as defined in Section 45-6-3 for a criminal act, whether misdemeanor or felony, which is alleged to have occurred while the teacher, jail officer, counselor at an adolescent opportunity program or law enforcement officer was in the performance of official duties, a probable cause hearing shall be held before a circuit court judge. The purpose of the hearing

shall be to determine if adequate probable cause exists for the issuance of a warrant. All parties testifying in these proceedings shall do so under oath. The accused shall have the right to enter an appearance at the hearing, represented by legal counsel at his own expense, to hear the accusations and evidence against him; he may present evidence or testify in his own behalf.

(* * *ii) The authority receiving any such charge or complaint against a teacher, jail officer, counselor at an adolescent offender program or law enforcement officer shall immediately present same to the county prosecuting attorney having jurisdiction who shall immediately present the charge or complaint to a circuit judge in the judicial district where the action arose for disposition pursuant to this section.

(b) For any person not covered under paragraph (a) of this subsection, before an arrest warrant based on the criminal complaint of a person who is not a law enforcement officer acting in the officer's official capacity may be issued against the person for an alleged criminal act, whether misdemeanor or felony, the appropriate judge must make a determination, with or without a hearing, as to whether the affidavit clearly identifies probable cause to believe that the offense alleged has been committed, at the discretion of the court. If the judge elects to hold a probable cause hearing, parties testifying shall do so under oath and the accused shall have the right to enter an appearance, be represented by legal counsel at his own expense, to hear the

accusations and evidence against him, and may present evidence or testify in his own behalf.

(2) Nothing in this section shall prohibit the issuance of an arrest warrant by a circuit court judge upon presentation of probable cause, without the holding of a probable cause hearing, if adequate evidence is presented to satisfy the court that there is a significant risk that the accused will flee the court's jurisdiction or that the accused poses a threat to the safety or well-being of the public.

(3) Nothing in this section shall prohibit a law enforcement officer from arresting any person under circumstances in which the law enforcement officer would not be required to seek a warrant from a court.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2099

Description: Motor vehicles; clarify that receiving title is not contingent on tag purchase if vehicle will not be driven.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	01/17	(S) Referred To Finance
2	02/25	(S) Title Suff Do Pass
3	03/10	(S) Passed {Vote}
4	03/11	(S) Transmitted To House
5	03/25	(H) Referred To Ways and Means
6	06/09	(H) Title Suff Do Pass
7	06/10	(H) Passed {Vote}
8	06/11	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 063-0021-0015

----- Additional Information -----

Senate Committee: Finance
House Committee: Ways and Means

Principal Author: Hill

Title: AN ACT TO AMEND SECTION 63-21-15, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE OWNER OF A MOTOR VEHICLE NEED NOT PURCHASE A TAG IN ORDER TO RECEIVE A CERTIFICATE OF TITLE TO THE VEHICLE, SO LONG AS THE APPLICATION CONTAINS AN AFFIDAVIT THAT THE VEHICLE WILL NOT BE OPERATED ON THE HIGHWAYS OF THIS STATE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Hill To: Finance

SENATE BILL NO. 2099

AN ACT TO AMEND SECTION 63-21-15, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE OWNER OF A MOTOR VEHICLE NEED NOT PURCHASE A TAG IN ORDER TO RECEIVE A CERTIFICATE OF TITLE TO THE VEHICLE, SO LONG AS THE APPLICATION CONTAINS AN AFFIDAVIT THAT THE VEHICLE WILL NOT BE OPERATED ON THE HIGHWAYS OF THIS STATE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-21-15, Mississippi Code of 1972, is amended as follows:

63-21-15. (1) The application for the certificate of title of a vehicle, manufactured home or mobile home in this state shall be made by the owner to a designated agent, on the form the Department of Revenue prescribes, and shall contain or be accompanied by the following, if applicable:

(a) The name, driver's license number, if the owner has been issued a driver's license, current residence and mailing address of the owner;

(b) (i) If a vehicle, a description of the vehicle, including the following data: year, make, model, vehicle identification number, type of body, the number of cylinders,

odometer reading at the time of application, and whether new or used; and

(ii) If a manufactured home or mobile home, a description of the manufactured home or mobile home, including the following data: year, make, model number, serial number and whether new or used;

(c) The date of purchase by applicant, the name and address of the person from whom the vehicle, manufactured home or mobile home was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(d) In connection with the transfer of ownership of a manufactured home or mobile home sold by a sheriff's bill of sale, a copy of the sheriff's bill of sale;

(e) (i) An odometer disclosure statement made by the transferor of a motor vehicle. The statement shall read:

"Federal and state law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fine and/or imprisonment.

I state that the odometer now reads _____ (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described herein, unless one (1) of the following statements is checked:

_____ (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

_____ (2) I hereby certify that the odometer reading is not the actual mileage. WARNING-ODOMETER DISCREPANCY!"

(ii) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title, which form shall be prescribed and furnished by the Department of Revenue. This written disclosure must be signed by the transferor and transferee, including the printed name of both parties.

Notwithstanding the requirements above, the following exemptions as to odometer disclosure shall be in effect:

1. A vehicle having a gross vehicle weight rating of more than sixteen thousand (16,000) pounds.

2. A vehicle that is not self-propelled.

3. A vehicle that is ten (10) years old or older.

4. A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

5. A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(iii) Any person who knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of up to One Thousand Dollars ($1,000.00) or imprisonment of up to one (1) year, or both, at the discretion of the court. These penalties shall be cumulative, supplemental and in addition to the penalties provided by any other law; and

(f) For previously used manufactured homes and mobile homes that previously have not been titled in this state or any other state, a disclosure statement shall be made by the owner of the manufactured home or mobile home applying for the certificate of title. That statement shall read:

"I state that the previously used manufactured home or mobile home owned by me for which I am applying for a certificate of title, to the best of my knowledge:

_____ (1) Has never been declared a total loss due to flood damage, fire damage, wind damage or other damage; or

_____ (2) Has previously been declared a total loss due to:

_____ (a) Collision;

_____ (b) Flood;

_____ (c) Fire;

_____ (d) Wind;

_____ (e) Other (please describe): _____

95 _____."

96 (2) The application shall be accompanied by such evidence as
97 the Department of Revenue reasonably requires to identify the
98 vehicle, manufactured home or mobile home and to enable the
99 Department of Revenue to determine whether the owner is entitled
100 to a certificate of title and the existence or nonexistence of
101 security interests in the vehicle, manufactured home or mobile
102 home and whether the applicant is liable for a use tax as provided
103 by Sections 27-67-1 through 27-67-33.

104 (3) If the application is for a vehicle, manufactured home
105 or mobile home purchased from a dealer, it shall contain the name
106 and address of any lienholder holding a security interest created
107 or reserved at the time of the sale and the date of his security
108 agreement and it shall be signed by the dealer as well as the
109 owner. The designated agent shall promptly mail or deliver the
110 application to the Department of Revenue.

111 (4) If the application is for a new vehicle, manufactured
112 home or mobile home, it shall contain the certified manufacturer's
113 statement of origin showing proper assignments to the applicant
114 and a copy of each security interest document.

115 (5) Each application shall contain or be accompanied by the
116 certificate of a designated agent that the vehicle, manufactured
117 home or mobile home has been physically inspected by him and that
118 the vehicle identification number and descriptive data shown on
119 the application, pursuant to the requirements of subsection (1)(b)

of this section, are correct, and also that he has identified the person signing the application and witnessed the signature. If the application is to receive a branded title for a vehicle for which a salvage certificate of title has been issued, the application shall be accompanied by a sworn affidavit that the vehicle complies with the requirements of this section, Section 63-21-39 and the regulations promulgated by the Department of Revenue under Section 63-21-39.

(6) If the application is for a first certificate of title on a vehicle, manufactured home or mobile home other than a new vehicle, manufactured home or mobile home, then the application shall conform with the requirements of this section except that in lieu of the manufacturer's statement of origin, the application shall be accompanied by a copy of the bill of sale of said motor vehicle, manufactured home or mobile home whereby the applicant claims title or in lieu thereof, in the case of a motor vehicle, certified copies of the last two (2) years' tag and tax receipts or in lieu thereof, in any case, such other information the Department of Revenue may reasonably require to identify the vehicle, manufactured home or mobile home and to enable the Department of Revenue to determine ownership of the vehicle, manufactured home or mobile home and the existence or nonexistence of security interest in it. If the application is for a vehicle, manufactured home or mobile home last previously registered in another state or country, the application shall also be

accompanied by the certificate of title issued by the other state or country, if any, properly assigned.

(7) If the application is for a vehicle the owner does not intend to drive, the owner need not purchase a license tag in order to receive a certificate of title, so long as the application contains an affidavit attesting to the owner's intent that the vehicle not be operated on the highways of this state until and unless the owner applies for a license tag.

(* * *8) Every designated agent within this state shall, no later than the next business day after they are received by him, forward to the Department of Revenue by mail, postage prepaid, the originals of all applications received by him, together with such evidence of title as may have been delivered to him by the applicants.

(* * *9) An application for certificate of title and information to be placed on an application for certificate of title may be transferred electronically as provided in Section 63-21-16.

(* * *10) The Department of Revenue shall issue a certificate of title or any other document applied for under this chapter to the designated agent, owner or lienholder of the motor vehicle or of the manufactured home or mobile home, as appropriate, not more than thirty (30) days after the application and required fee prescribed under Section 63-21-63 or Section

63-21-64 are received unless the applicant requests expedited processing under subsection (* * *11) of this section.

(* * * 11) (a) The Department of Revenue shall establish an expedited processing procedure for the receipt of applications and the issuance of certificates of title and any other documents issued under this chapter, except a replacement certificate of title as provided under Section 63-21-27(2), for motor vehicles and for manufactured homes or mobile homes. Any designated agent, lienholder or owner requesting the issuance of any such document, at his or her option, shall receive such expedited processing upon payment of a fee in the amount of Thirty Dollars ($30.00). Such fee shall be in addition to the fees applicable to the issuance of any such documents under Section 63-21-63 and Section 63-21-64.

(b) When expedited title processing is requested, the applicable fees are paid and all documents and information necessary for the Department of Revenue to issue the certificate of title or other documents applied for are received by the department, then the department shall complete processing of the application and issue the title or document applied for within seventy-two (72) hours of the time of receipt, excluding weekends and holidays.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2131

Description: Secretary of State's official seal; include the phrase "In God We Trust" at the bottom.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	01/23	(S)	Referred To Accountability, Efficiency, Transparency
2	02/25	(S)	Title Suff Do Pass
3	03/10	(S)	Amended
4	03/10	(S)	Passed As Amended {Vote}
5	03/12	(S)	Transmitted To House
6	03/25	(H)	Referred To Accountability, Efficiency, Transparency
7	06/04	(H)	Title Suff Do Pass
8	06/16	(H)	Passed {Vote}
9	06/17	(H)	Returned For Enrolling
10	06/19	(S)	Enrolled Bill Signed
11	06/19	(H)	Enrolled Bill Signed
12	06/25		Approved by Governor

Amendments:

[S] Amendment No 1 ***Adopted*** Voice Vote

Code Section: A 007-0003-0007

----- Additional Information -----

Senate Committee: Accountability, Efficiency, Transparency
House Committee: Accountability, Efficiency, Transparency

Principal Author: England
Additional Authors: Barnett, Blackmon, Blackwell, Blount, Boyd, Branning, Bryan, Butler, Carter, Caughman, Chassaniol, Chism, DeBar, DeLano, Doty, Fillingane, Frazier, Harkins, Hill, Hopson, Horhn, Jackson (11th), Jackson (15th), Jackson (32nd), Johnson, Jordan, Kirby, McCaughn, McDaniel, McLendon, McMahan, Michel, Moran, Norwood,

Parker, Parks, Polk, Seymour, Simmons (12th), Simmons (13th), Sojourner, Sparks, Suber, Tate, Thomas, Thompson, Turner-Ford, Whaley, Wiggins, Witherspoon, Younger

Title: AN ACT TO AMEND SECTION 7-3-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE OFFICIAL SEAL USED BY THE SECRETARY OF STATE SHALL CONTAIN THE WORDS "IN GOD WE TRUST" AT THE BOTTOM OF THE SEAL; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) England, Barnett, Blackmon, Blackwell, Blount, Boyd, Branning, Bryan, Butler, Carter, Caughman, Chassaniol, Chism, DeBar, DeLano, Doty, Fillingane, Frazier, Harkins, Hill, Hopson, Horhn, Jackson (11th), Jackson (15th), Jackson (32nd), Johnson, Jordan, Kirby, McCaughn, McDaniel, McLendon, McMahan, Michel, Moran, Norwood, Parker, Parks, Polk, Seymour, Simmons (12th), Simmons (13th), Sojourner, Sparks, Suber, Tate, Thomas, Thompson, Turner-Ford, Whaley, Wiggins, Witherspoon, Younger

To: Accountability, Efficiency, Transparency

SENATE BILL NO. 2131
(As Passed the Senate)

AN ACT TO AMEND SECTION 7-3-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE OFFICIAL SEAL USED BY THE SECRETARY OF STATE SHALL CONTAIN THE WORDS "IN GOD WE TRUST" AT THE BOTTOM OF THE SEAL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 7-3-7, Mississippi Code of 1972, is amended as follows:

7-3-7. The Secretary of State shall have a seal which shall be in the form of a circle, with the image of an eagle in the center and around the margin the words "Secretary of State-State of Mississippi" and under the image of the eagle the words: " * * *<u>In God We Trust</u>."

The Secretary of State shall affix the seal prescribed to every document where the same is required by law, and to every certificate and other official paper executed by him where necessary or proper. All documents authenticated with * * * <u>the</u> seal and signed by * * * <u>the</u> Secretary of State shall be received

as evidence in all courts, investigations, and proceedings authorized by law, and may be recorded in the same manner and with like effect as a deed. All copies of papers in the Office of * * * the Secretary of State, certified by him and authenticated by * * * the seal, shall be accepted in all matters equally in like manner as the original.

SECTION 2. The Office of the Secretary of State shall continue to use stationery and other supplies having the seal thereon as it existed before July 1, 2020, until such stationery and other supplies are depleted. The seal as it existed before July 1, 2020, affixed on any public buildings, property or any other item shall remain thereon until the replacement of the seal due to normal wear or until replacement with any nonpublic funds.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2195

Description: Memorial highway; designate certain segment of Mississippi Highway 15 in Newton County for Judge Marcus D. Gordon.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/29	(S) Referred To Highways and Transportation
2	03/03	(S) Title Suff Do Pass Comm Sub
3	03/04	(S) Committee Substitute Adopted
4	03/04	(S) Passed {Vote}
5	03/05	(S) Transmitted To House
6	03/17	(H) Referred To Transportation; Appropriations
7	06/04	(H) DR - TSDP: TR To AP
8	06/09	(H) DR - TSDP: AP To TR
9	06/09	(H) Title Suff Do Pass
10	06/16	(H) Passed {Vote}
11	06/17	(H) Returned For Enrolling
12	06/19	(S) Enrolled Bill Signed
13	06/19	(H) Enrolled Bill Signed
14	06/25	Approved by Governor

----- Additional Information -----

Senate Committee: Highways and Transportation
House Committee: Transportation, Appropriations

Principal Author: McCaughn
Additional Authors: Branning

Title: AN ACT TO DESIGNATE A SEGMENT OF MISSISSIPPI HIGHWAY 15 IN NEWTON COUNTY, MISSISSIPPI, WITHIN THE CITY OF UNION, AS THE "JUDGE MARCUS D. GORDON MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) McCaughn, Branning

To: Highways and Transportation

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2195

AN ACT TO DESIGNATE A SEGMENT OF MISSISSIPPI HIGHWAY 15 IN NEWTON COUNTY, MISSISSIPPI, WITHIN THE CITY OF UNION, AS THE "JUDGE MARCUS D. GORDON MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The segment of Mississippi Highway 15 in Newton County, Mississippi, beginning at the southern corporate limits of the City of Union and extending northward for one (1) mile, is designated as the "Judge Marcus D. Gordon Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2227

Description: MS Life and Health Insurance Guaranty Association Act; revise to include HMO subscriber contracts and certificates.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	01/31	(S) Referred To Insurance
2	02/12	(S) Title Suff Do Pass Comm Sub
3	03/05	(S) Committee Substitute Adopted
4	03/05	(S) Passed {Vote}
5	03/06	(S) Transmitted To House
6	03/25	(H) Referred To Insurance
7	05/27	(H) Title Suff Do Pass
8	05/28	(H) Passed {Vote}
9	05/29	(H) Returned For Enrolling
10	06/03	(S) Enrolled Bill Signed
11	06/03	(H) Enrolled Bill Signed
12	06/10	Approved by Governor

Code Section: A 083-0023-0203, A 083-0023-0205, A 083-0023-0209, A 083-0023-0211, A 083-0023-0215, A 083-0023-0217, A 083-0023-0221, A 083-0023-0223, A 083-0023-0225, A 083-0023-0235

----- Additional Information -----

Senate Committee: Insurance
House Committee: Insurance

Principal Author: Kirby
Additional Authors: Michel

Title: AN ACT TO AMEND SECTION 83-23-203, MISSISSIPPI CODE OF 1972, TO REVISE THE PURPOSE OF THE MISSISSIPPI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT; TO AMEND SECTION 83-23-205, MISSISSIPPI CODE OF 1972, TO REVISE THE COVERAGES PROVIDED UNDER THE ACT TO INCLUDE COVERAGE FOR HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER CONTRACTS AND CERTIFICATES, AND TO CLARIFY CERTAIN

COVERAGES; TO AMEND SECTION 83-23-209, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DEFINITION OF "MEMBER INSURER" INCLUDES A HEALTH MAINTENANCE ORGANIZATION THAT HOLDS A CERTIFICATE OF AUTHORITY TO TRANSACT HEALTH MAINTENANCE ORGANIZATION BUSINESS; TO AMEND SECTION 83-23-211, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT HEALTH MAINTENANCE ORGANIZATIONS SHALL BE AND REMAIN MEMBER INSURERS AS A CONDITION OF THEIR AUTHORITY TO TRANSACT HEALTH MAINTENANCE ORGANIZATION BUSINESS IN MISSISSIPPI; TO AMEND SECTION 83-23-215, MISSISSIPPI CODE OF 1972, TO REVISE THE POWERS OF THE ASSOCIATION; TO AMEND SECTION 83-23-217, MISSISSIPPI CODE OF 1972, TO REMOVE THE MAXIMUM LIMITATION ON CLASS A ASSESSMENTS AND TO PROVIDE FOR THE ALLOCATION OF CLASS B ASSESSMENTS RELATED TO LONG-TERM CARE INSURANCE; TO AMEND SECTIONS 83-23-221, 83-23-223 AND 83-23-225, MISSISSIPPI CODE OF 1972, TO CONFORM TO PREVIOUS SECTIONS; TO AMEND SECTION 83-23-235, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROHIBITION AGAINST USING THE ASSOCIATION'S NAME IN ADVERTISING AND TO PROVIDE FOR DELIVERY OF A SUMMARY DOCUMENT DISCLOSURE BY HEALTH MAINTENANCE ORGANIZATIONS; TO CREATE NEW SECTION 83-23-239, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPLICABILITY OF THE AMENDMENTS MADE BY THIS ACT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Kirby, Michel To: Insurance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2227

AN ACT TO AMEND SECTION 83-23-203, MISSISSIPPI CODE OF 1972, TO REVISE THE PURPOSE OF THE MISSISSIPPI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT; TO AMEND SECTION 83-23-205, MISSISSIPPI CODE OF 1972, TO REVISE THE COVERAGES PROVIDED UNDER THE ACT TO INCLUDE COVERAGE FOR HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER CONTRACTS AND CERTIFICATES, AND TO CLARIFY CERTAIN COVERAGES; TO AMEND SECTION 83-23-209, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DEFINITION OF "MEMBER INSURER" INCLUDES A HEALTH MAINTENANCE ORGANIZATION THAT HOLDS A CERTIFICATE OF AUTHORITY TO TRANSACT HEALTH MAINTENANCE ORGANIZATION BUSINESS; TO AMEND SECTION 83-23-211, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT HEALTH MAINTENANCE ORGANIZATIONS SHALL BE AND REMAIN MEMBER INSURERS AS A CONDITION OF THEIR AUTHORITY TO TRANSACT HEALTH MAINTENANCE ORGANIZATION BUSINESS IN MISSISSIPPI; TO AMEND SECTION 83-23-215, MISSISSIPPI CODE OF 1972, TO REVISE THE POWERS OF THE ASSOCIATION; TO AMEND SECTION 83-23-217, MISSISSIPPI CODE OF 1972, TO REMOVE THE MAXIMUM LIMITATION ON CLASS A ASSESSMENTS AND TO PROVIDE FOR THE ALLOCATION OF CLASS B ASSESSMENTS RELATED TO LONG-TERM CARE INSURANCE; TO AMEND SECTIONS 83-23-221, 83-23-223 AND 83-23-225, MISSISSIPPI CODE OF 1972, TO CONFORM TO PREVIOUS SECTIONS; TO AMEND SECTION 83-23-235, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROHIBITION AGAINST USING THE ASSOCIATION'S NAME IN ADVERTISING AND TO PROVIDE FOR DELIVERY OF A SUMMARY DOCUMENT DISCLOSURE BY HEALTH MAINTENANCE ORGANIZATIONS; TO CREATE NEW SECTION 83-23-239, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPLICABILITY OF THE AMENDMENTS MADE BY THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-23-203, Mississippi Code of 1972, is amended as follows:

83-23-203. (1) The purpose of this article is to protect, subject to certain limitations, the persons specified in Section 83-23-205(1) against failure in the performance of contractual obligations, under life * * *, health * * *, and annuity policies, plans or contracts specified in Section 83-23-205(2), because of the impairment or insolvency of the member insurer that issued the policies, plans or contracts.

(2) To provide this protection, an association of member insurers is created to pay benefits and to continue coverages as limited herein, and members of the association are subject to assessment to provide funds to carry out the purpose of this article.

SECTION 2. Section 83-23-205, Mississippi Code of 1972, is amended as follows:

83-23-205. (1) This article shall provide coverage for the policies and contracts specified in subsection (2)(a) of this section:

(a) To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees, including health care providers rendering services covered under health insurance policies or certificates, of the persons covered under paragraph (b);

(b) To persons who are owners of or certificate holders or enrollees under the policies or contracts (other than

unallocated annuity contracts and structured settlement annuities) and in each case who:

(i) Are residents; or

(ii) Are not residents, but only under all of the following conditions:

1. The member insurer that issued the policies or contracts is domiciled in this state;

2. The states in which the persons reside have associations similar to the association created by this article;

3. The persons are not eligible for coverage by an association in any other state due to the fact that the insurer or health maintenance organization was not licensed in the state at the time specified in the state's guaranty association law.

(c) For unallocated annuity contracts specified in subsection (2)(a) of this section, paragraphs (a) and (b) of this subsection shall not apply, and this article shall (except as provided in paragraphs (e) and (f) of this subsection) provide coverage to:

(i) Persons who are the owners of the unallocated annuity contracts if the contracts are issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; and

(ii) Persons who are owners of unallocated annuity contracts issued to or in connection with government lotteries if the owners are residents.

(d) For structured settlement annuities specified in subsection (2)(a) of this section, paragraphs (a) and (b) of this subsection shall not apply, and this article shall (except as provided in paragraphs (e) and (f) of this subsection) provide coverage to a person who is a payee under a structured settlement annuity (or beneficiary of a payee if the payee is deceased), if the payee:

(i) Is a resident, regardless of where the contract owner resides, or

(ii) Is not a resident, but only under both of the following conditions:

1. a. The contract owner of the structured settlement annuity is a resident, or

b. The contract owner of the structured settlement annuity is not a resident, but (A) the insurer that issued the structured settlement annuity is domiciled in this state; and (B) the state in which the contract owner resides has an association similar to the association created by this article; and

2. Neither the payee (or beneficiary) nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(e) This article shall not provide coverage to:

(i) A person who is a payee (or beneficiary) or a contract owner resident of this state, if the payee (or beneficiary) is afforded any coverage by the association of another state; * * *

(ii) A person covered under paragraph (c) of this subsection, if any coverage is provided by the association of another state to the person * * *; or

(iii) A person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless of whether the transaction occurred before or after 26 U.S.C. 5891(c)(3)(A) became effective.

(f) This article is intended to provide coverage to a person who is a resident of this state and in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this article is provided coverage under the laws of any other state, the person shall not be provided coverage under this article. In determining the application of the provisions of this paragraph, in situations where a person could be covered by the association of more than one (1) state, whether as an owner, payee, enrollee, beneficiary or assignee, this article shall be construed in conjunction with other state laws to result in coverage by only one (1) association.

(2) (a) This article shall provide coverage to the persons specified in subsection (1) of this section for policies or contracts of direct, nongroup life * * * insurance, health insurance (which for the purposes of this article includes health maintenance organization subscriber contracts and certificates), or annuities and supplemental contracts to any of these, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by this article. Annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement annuities, annuities issued to or in connection with government lotteries and any immediate or deferred annuity contracts.

(b) Except as otherwise provided in subsection (3) of this section, this article shall not provide coverage for:

(i) A portion of a policy or contract not guaranteed by the member insurer, or under which the risk is borne by the policy or contract owner;

(ii) A policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(iii) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the

interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

1. Averaged over the period of four (4) years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this article, whichever is earlier, exceeds the rate of interest determined by subtracting two (2) percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four (4) years before the member insurer becomes an impaired or insolvent insurer under this article, whichever is earlier; and

2. On and after the date on which the member insurer becomes an impaired or insolvent insurer under this article, whichever is earlier, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's Corporate Bond Yield Average as most recently available;

(iv) A portion of a policy or contract issued to a plan or program of an employer, association or other person to provide life, health or annuity benefits to its employees, members or others to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or other person under:

1. A Multiple Employer Welfare Arrangement as defined in 29 * * * U.S.C. Section 1002(40);

2. A minimum premium group insurance plan;

3. A stop-loss group insurance plan; or

4. An administrative services only contract;

(v) A portion of a policy or contract to the extent that it provides for:

1. Dividends or experience-rating credits;

2. Voting rights; or

3. Payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;

(vi) A policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue such policy or contract in this state;

(vii) An unallocated annuity contract issued to or in connection with a benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payments with respect to the benefit plan;

(viii) A portion of any unallocated annuity contract that is not issued to or in connection with a specific employee, union or association of natural persons benefit plan or a government lottery;

(ix) A portion of a policy or contract to the extent that the assessments required by Section 83-23-217 with

respect to the policy or contract are preempted by federal or state law;

(x) An obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, certificate holder, contract owner or policy owner, including without limitation:

1. Claims based on marketing materials;

2. Claims based on side letters, riders or other documents that were issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;

3. Misrepresentations of or regarding policy or contract benefits;

4. Extra-contractual claims; or

5. A claim for penalties or consequential or incidental damages;

(xi) A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer;

(xii) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference

stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this article, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this paragraph, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture; and

(xiii) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to Part C or Part D of Subchapter XVIII, Chapter 7 of Title 42 of the United States Code (commonly known as Medicare Part C & D), or Subchapter XIX, Chapter 7 of Title 42 of the United States Code (commonly known as Medicaid), or any regulations issued pursuant thereto.

(xiv) Structured settlement annuity benefits to which a payee (or beneficiary) has transferred his or her rights in a structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless of whether the transaction occurred before or after 26 U.S.C. 5891(c)(3)(A) became effective.

(3) The exclusion from coverage referenced in subsection (2)(b)(iii) of this section shall not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other health insurance benefits.

(* * *4) The benefits that the association may become obligated to cover shall in no event exceed the lesser of:

(a) The contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(b) (i) With respect to any one (1) life, regardless of the number of policies or contracts:

1. Three Hundred Thousand Dollars ($300,000.00) in life insurance death benefits, but not more than One Hundred Thousand Dollars ($100,000.00) in net cash surrender and net cash withdrawal values for life insurance;

2. * * * For health insurance benefits:

a. One Hundred Thousand Dollars ($100,000.00) for coverages not defined as disability income insurance or * * * health benefit plans or long-term care insurance, including any net cash surrender and net cash withdrawal values;

b. Three Hundred Thousand Dollars ($300,000.00) for disability income insurance and Three Hundred Thousand Dollars ($300,000.00) for long-term care insurance;

c. Five Hundred Thousand Dollars ($500,000.00) for * * * health benefit plans; * * *

3. Two Hundred Fifty Thousand Dollars ($250,000.00) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; or

(ii) With respect to each individual participating in a governmental retirement benefit plan established under Section 401, 403(b) or 457 of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, Two Hundred Fifty Thousand Dollars ($250,000.00) in present value annuity benefits, including net cash surrender and net cash withdrawal values;

(iii) With respect to each payee of a structured settlement annuity (or beneficiary or beneficiaries of the payee if deceased), Two Hundred Fifty Thousand Dollars ($250,000.00) in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(iv) However, in no event shall the association be obligated to cover more than (a) an aggregate of Three Hundred Thousand Dollars ($300,000.00) in benefits with respect to any one (1) life under paragraphs (b)(i), (b)(ii) and (b)(iii) of this subsection except with respect to benefits for * * * health benefit plans under paragraph (b)(i) of this subsection, in which case the aggregate liability of the association shall not exceed

Five Hundred Thousand Dollars ($500,000.00) with respect to any one (1) individual, or (b) with respect to one (1) owner of multiple nongroup policies of life insurance, whether the policy or contract owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, more than Five Million Dollars ($5,000,000.00) in benefits, regardless of the number of policies and contracts held by the owner;

(v) With respect to either (a) one (1) contract owner provided coverage under subsection (1)(c)(ii) of this section; or (b) one (1) plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in paragraph (b)(ii) of this subsection, Five Million Dollars ($5,000,000.00) in benefits, irrespective of the number of contracts with respect to the contract owner or plan sponsor. However, in the case where one or more unallocated annuity contracts are covered contracts under this article and are owned by a trust or other entity for the benefit of two (2) or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state and in no event shall the association be obligated to cover more than Five Million Dollars ($5,000,000.00) in benefits with respect to all these unallocated contracts;

(vi) The limitations set forth in this subsection are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this article may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights * * *;

(vii) For purposes of this article, benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

(* * *5) In performing its obligations to provide coverage under Section 83-23-215, the association shall not be required to guarantee, assume, reinsure, reissue or perform, or cause to be guaranteed, assumed, reinsured, reissued or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

SECTION 3. Section 83-23-209, Mississippi Code of 1972, is amended as follows:

83-23-209. As used in this article:

(a) "Account" means either of the two (2) accounts created under Section 83-23-211.

(b) "Association" means the Mississippi Life and Health Insurance Guaranty Association created under Section 83-23-211.

(c) "Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

(d) "Benefit plan" means a specific employee, union or association of natural persons benefit plan.

(e) "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

(f) "Commissioner" means the Commissioner of Insurance of this state.

(g) "Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or portion thereof for which coverage is provided under Section 83-23-205.

(h) "Covered contract" or "covered policy" means a policy or contract or portion of a policy or contract for which coverage is provided under Section 83-23-205.

(i) "Extra-contractual claims" shall include, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages or attorneys' fees and costs.

(j) "Health benefit plan" means any hospital or medical expense policy or certificate, or health maintenance organization subscriber contract or any other similar health contract. "Health benefit plan" does not include:

(i) Accident only insurance;

(ii) Credit insurance;

(iii) Dental only insurance;

(iv) Vision only insurance;

(v) Medicare Supplement insurance;

(vi) Benefits for long-term care, home health care, community-based care, or any combination thereof;

(vii) Disability income insurance;

(viii) Coverage for on-site medical clinics; or

(ix) Specified disease, hospital confinement indemnity or limited benefit health insurance if the types of coverage do not provide coordination of benefits and are provided under separate policies or certificates.

(* * *k) "Impaired insurer" means a member insurer which, after April 9, 1985, is not an insolvent insurer, and is

placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(* * *l) "Insolvent insurer" means a member insurer which after April 9, 1985, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(* * *m) "Member insurer" means an insurer or health maintenance organization licensed or that holds a certificate of authority to transact in this state any kind of insurance or a health maintenance organization business for which coverage is provided under Section 83-23-205, and includes any insurer or health maintenance organization whose license or certificate of authority in this state may have been suspended, revoked, not renewed or voluntarily withdrawn, but does not include:

(i) A hospital or medical service organization whether profit or nonprofit;

* * *

(* * *ii) A fraternal benefit society;

(* * *iii) A mandatory state pooling plan;

(iv) A mutual assessment company or other person that operates on an assessment basis;

(* * *v) An insurance exchange;

(* * *vi) An organization that has a certificate or license limited to the issuance of charitable gift annuities; or

(* * *vii) * * * An entity similar to any of the above.

(* * *n) "Moody's Corporate Bond Yield Average" means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(* * *o) "Owner" of a policy or contract and "policyholder," "policy owner" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. The terms owner, contract owner, policyholder and policy owner do not include persons with a mere beneficial interest in a policy or contract.

(* * *p) "Person" means any individual, corporation, limited liability company, partnership, association, governmental body or entity or voluntary organization.

(* * *q) "Plan sponsor" means:

(i) The employer in the case of a benefit plan established or maintained by a single employer;

(ii) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(iii) In a case of a benefit plan established or maintained by two (2) or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(* * *r) "Premiums" means amounts or considerations (by whatever name called) received on covered policies or contracts less returned premiums, considerations and deposits, and less dividends and experience credits. "Premiums" does not include amounts or considerations received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under Section 83-23-205(2), except that assessable premium shall not be reduced on account of Sections 83-23-205(2)(b)(iii) relating to interest limitations and 83-23-205(3)(b) relating to limitations with respect to one (1) individual, one (1) participant and one (1) policy or contract owner. "Premiums" shall not include:

(i) Premiums in excess of Five Million Dollars ($5,000,000.00) on an unallocated annuity contract not issued under a governmental retirement benefit plan (or its trustee) established under Section 401, 403(b) or 457 of the United States Internal Revenue Code; or

(ii) With respect to multiple nongroup policies of life insurance owned by one (1) owner, whether the policy or

contract owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, premiums in excess of Five Million Dollars ($5,000,000.00) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(* * *s) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control and coordination of the operations of the entity as a whole primarily exercise that function, determined by the association in its reasonable judgment by considering the following factors:

(i) The state in which the primary executive and administrative headquarters of the entity is located;

(ii) The state in which the principal office of the chief executive officer of the entity is located;

(iii) The state in which the board of directors (or similar governing person or persons) of the entity conducts the majority of its meetings;

(iv) The state in which the executive or management committee of the board of directors (or similar governing person or persons) of the entity conducts the majority of its meetings;

(v) The state from which the management of the overall operations of the entity is directed; and

(vi) In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors.

However, in the case of a plan sponsor, if more than fifty percent (50%) of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor.

The principal place of business of a plan sponsor of a benefit plan described in paragraph (* * *q)(iii) of this section shall be deemed to be the principal place of business of the association, committee, joint board of trustees or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

(* * *t) "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation or liquidation of the member insurer.

(* * *u) "Resident" means a person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer, whichever occurs first. A person may be a resident of only one (1) state, which in the case of a person other than a natural person shall be its principal place of business. Citizens of the United States that are either (i) residents of foreign countries, or (ii) residents of United States possessions, territories or protectorates that do not have an association similar to the association created by this article, shall be deemed residents of the state of domicile of the member insurer that issued the policies or contracts.

(* * *v) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(* * *w) "State" means a state, the District of Columbia, Puerto Rico, and a United States possession, territory or protectorate.

(* * *x) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health or annuity policy or contract.

(* * *y) "Unallocated annuity contract" means an annuity contract or group annuity certificate which is not issued

to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

SECTION 4. Section 83-23-211, Mississippi Code of 1972, is amended as follows:

83-23-211. (1) There is created a nonprofit legal entity to be known as the Mississippi Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance or a health maintenance organization business in this state. The association shall perform its functions under the plan of operation established and approved under Section 83-23-219 and shall exercise its powers through a board of directors established under Section 83-23-213. For purposes of administration and assessment the association shall maintain two (2) accounts:

(a) The life insurance and annuity account which includes the following subaccounts:

(i) Life insurance account;

(ii) Annuity account which shall include annuity contracts owned by a governmental retirement plan (or its trustee) established under Section 401, 403(b) or 457 of the United States Internal Revenue Code, but shall otherwise exclude unallocated annuities; and

(iii) Unallocated annuity account which shall exclude contracts owned by a governmental retirement benefit plan

(or its trustee) established under Section 401, 403(b) or 457 of the United States Internal Revenue Code.

(b) The health * * * account.

(2) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state. Meetings or records of the association may be opened to the public upon majority vote of the board of directors of the association.

SECTION 5. Section 83-23-215, Mississippi Code of 1972, is amended as follows:

83-23-215. (1) If a member insurer is an impaired insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer, and that are approved by the commissioner:

(a) Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued or reinsured, any or all of the policies or contracts of the impaired insurer; or

(b) Provide such monies, pledges, loans, notes, guarantees or other means as are proper to effectuate paragraph (a), and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a).

(2) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a) (i) 1. Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued or reinsured, the policies or contracts of the insolvent insurer; or

2. Assure payment of the contractual obligations of the insolvent insurer; and

(ii) Provide monies, pledges, loans, notes, guarantees or other means reasonably necessary to discharge the association's duties; or

(b) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to * * * policies and * * * contracts, assure payment of benefits * * * that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

1. With respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or forty-five (45) days, but in no event less than thirty (30) days, after the date on which the association becomes obligated with respect to the policies and contracts;

2. With respect to nongroup policies, contracts and annuities not later than the earlier of the next renewal date (if any) under the policies or contracts or one (1) year, but in no event less than thirty (30) days, from the date on

which the association becomes obligated with respect to the policies or contracts;

(ii) Make diligent efforts to provide all known insureds, enrollees or annuitants (for nongroup policies and contracts), or group policy or contract owners with respect to group policies and contracts, thirty (30) days' notice of the termination (pursuant to subparagraph (i) of this paragraph) of the benefits provided;

(iii) With respect to nongroup * * * policies and * * * contracts covered by the association, make available to each known insured, enrollee, or annuitant, or owner if other than the insured, or annuitant, and with respect to an individual formerly an insured * * *, enrollee or annuitant under a group policy or contract who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of subparagraph (iv), if the insureds, enrollees or annuitants had a right under law or the terminated policy, contract or annuity to convert coverage to individual coverage or to continue an individual policy, contract or annuity in force until a specified age or for a specified time, during which the insurer or health maintenance organization had no right unilaterally to make changes in any provision of the policy, contract or annuity or had a right only to make changes in premium by class;

(iv) 1. In providing the substitute coverage required under subparagraph (iii), the association may offer either to reissue the terminated coverage or to issue an alternative policy or contract at actuarially justified rates, subject to the prior approval of the commissioner;

2. Alternative or reissued policies or contracts shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract;

3. The association may reinsure any alternative or reissued policy * * * or contract;

(v) 1. Alternative policies or contracts adopted by the association shall be subject to the approval of the * * * commissioner * * *. The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency;

2. Alternative policies or contracts shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not

reflect any changes in the health of the insured after the original policy or contract was last underwritten;

3. Any alternative policy or contract issued by the association shall provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association;

(vi) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium shall be actuarially justified and set by the association in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to prior approval of the * * * commissioner * * *;

(vii) The association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued or alternative policy or contract shall cease on the date such coverage or policy or contract is replaced by another similar policy or contract by the policy or contract owner, the insured, the enrollee or the association; * * *

(viii) When proceeding under subsection (2) of this section with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with Section 83-23-205(2)(b)(iii).

(3) Nonpayment of premiums within thirty-one (31) days after the date required under the terms of any guaranteed, assumed, alternative or reissued policy or contract or substitute coverage shall terminate the association's obligations under the policy, contract or coverage under this article with respect to the policy, contract or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this article.

(4) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association. If the liquidator of an insolvent insurer requests, the association shall provide a report to the liquidator regarding such premium collected by the association. The association shall be liable for unearned premiums due to policy or contract owners arising after the entry of such order.

(5) The protection provided by this article shall not apply where any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(6) In carrying out its duties under subsection (2) of this section, the association may:

(a) Subject to approval by a court in this state, impose permanent policy or contract liens in connection with * * * a guarantee, assumption or reinsurance agreement, if the

association finds that the amounts which can be assessed under this article are less than the amounts needed to assure full and prompt performance of the association's duties under this article, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens, to be in the public interest;

(b) Subject to approval by a court in this state, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans or other rights by the association for a period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(7) A deposit in this state, held pursuant to law or required by the commissioner for the benefit of creditors, including policy or contract owners, not turned over to the

domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of * * * a member insurer domiciled in this state or in a reciprocal state, pursuant to Section 83-24-103 of the Insurers Rehabilitation and Liquidation Act, shall be promptly paid to the association. The association shall be entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy or contract owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy or contract owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount so paid to the association less the amount retained pursuant to this subsection. Any amount so paid to the association and retained by it shall be treated as a distribution of estate assets pursuant to Section 83-24-67 of the Insurers Rehabilitation and Liquidation Act or similar provision of the state of domicile of the impaired or insolvent insurer.

(8) If the association fails to act within a reasonable period of time with respect to an insolvent insurer as provided in subsection (2) of this section, the commissioner shall have the powers and duties of the association under this article with respect to the insolvent insurer.

(9) The association may render assistance and advice to the commissioner, upon the commissioner's request, concerning

rehabilitation, payment of claims, continuance of coverage or the performance of other contractual obligations of an impaired or insolvent insurer.

(10) The association shall have standing to appear or intervene before a court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this article or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise. Standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, reissuing, modifying or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(11) (a) A person receiving benefits under this article shall be deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of

this article, whether the benefits are payments of or on account of contractual obligations, continuation of coverage or provision of substitute or alternative policies, contracts or coverages. The association may require an assignment to it of such rights and causes of action by any enrollee, payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any right or benefits conferred by this article upon the person.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this article.

(c) In addition to paragraphs (a) and (b) above, the association shall have all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, enrollee or payee of a policy or contract with respect to such policy or contracts (including, without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary or payee of the annuity, to the extent of benefits received pursuant to this article, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment therefore), excepting any such person responsible solely by reason of serving as an

assignee in respect of a qualified assignment under Internal Revenue Code Section 130.

(d) If the preceding provisions of this subsection are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts (or portion thereof) covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in the preceding paragraphs of this subsection, the person shall pay to the association the portion of the recovery attributable to the policies or contracts (or portion thereof) covered by the association.

(12) In addition to the rights and powers elsewhere in this article, the association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this article;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under Section 83-23-217 and to settle claims or potential claims against it;

(c) Borrow money to effect the purposes of this article; any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary or appropriate to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this article;

(e) Take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(f) Exercise, for the purposes of this article and to the extent approved by the commissioner, the powers of a domestic life * * * insurer, health insurer or health maintenance organization, but in no case may the association issue * * * policies or * * * contracts other than those issued to perform its obligations under this article;

(g) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(h) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this article with respect to the person, and the person shall promptly comply with the request; * * *

(i) Unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for

actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this article; and

(* * *j) Take other necessary or appropriate action to discharge its duties and obligations under this article or to exercise its powers under this article.

(13) The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(14) (a) (i) At any time within one hundred eighty (180) days of the date of the order of liquidation, the association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies, contracts or annuities covered, in whole or in part, by the association, in each case under any one or more indemnity reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the association. Any such assumption shall be effective as of the date of the order of liquidation. The election shall be effected by the association or the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) on its behalf sending written notice, return receipt requested to the affected reinsurers.

(ii) To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and in order to protect the financial position of the estate, the receiver and each reinsurer of the ceding member

insurer shall make available upon request to the association or to NOLHGA on its behalf as soon as possible after commencement of formal delinquency proceedings.

1. Copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed, and

2. Notices of any defaults under the reinsurance contracts or any known event or condition which with the passage of time could become a default under the reinsurance contracts.

(iii) The following items 1 through 4 shall apply to reinsurance contracts so assumed by the association:

1. The association shall be responsible for all unpaid premiums due under the reinsurance contracts * * * for periods both before and after the date of the order of liquidation * * *, and shall be responsible for the performance of all other obligations to be performed after the * * * date of the order of liquidation, in each case which relate to policies, contracts or annuities covered * * *, in whole or in part * * *, by the association. The association may charge policies, contracts or annuities covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association and shall provide notice and an accounting of these charges to the liquidator;

2. The association shall be entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies, contracts or annuities covered, in whole or in part, by the association provided that, upon receipt of any such amounts, the association shall be obliged to pay to the beneficiary under the policy, contract or annuity on account of which the amounts were paid a portion of the amount equal to the lesser of:

a. The amount received by the association, and

b. The excess of the amount received by the association over the amount equal to the benefits paid by the association on account of the policy, contract or annuity less the retention of the insurer applicable to the loss or event;

3. Within thirty (30) days following the association's election (the "election date"), the association and each reinsurer under contracts assumed by the association shall calculate the net balance due to or from the association under each reinsurance contract as of the election date with respect to policies, contracts or annuities covered, in whole or in part, by the association, which calculation shall give full credit to all items paid by either the member insurer or its receiver or the reinsurer prior to the election date. The reinsurer shall pay the receiver any amounts due for losses or events prior to the date of

the order of liquidation, subject to any set-off for premiums unpaid for periods prior to the date, and the association or reinsurer shall pay any remaining balance due the other, in each case within five (5) days of the completion of the aforementioned calculation. Any disputes over the amounts due to either the association or the reinsurer shall be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contract contains no arbitration clause, as otherwise provided by law. If the receiver has received any amounts due the association pursuant to subparagraph (iii), the receiver shall remit the same to the association as promptly as practicable;

4. If the association or receiver, on the association's behalf, within sixty (60) days of the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies, contracts or annuities covered, in whole or in part, by the association, the reinsurer shall not be entitled to terminate the reinsurance contracts for failure to pay premium (insofar as the reinsurance contracts) relate to policies, contracts or annuities covered, in whole or in part, by the association and shall not be entitled to set off any unpaid amounts due under other contracts, or unpaid amounts due from parties other than the association against amounts due the association.

(b) During the period from the date of the order of liquidation until the election date (or, if the election date does

not occur, until one hundred eighty (180) days after the date of the order of liquidation) * * *.

(i) 1. Neither the association nor the reinsurer shall have any rights or obligations under reinsurance contracts that the association has the right to assume under paragraph (a), whether for periods prior to or after the date of the order of liquidation; and

2. The reinsurer, the receiver and the association shall, to the extent practicable, provide each other data and record reasonably requested;

(ii) Provided that once the association has elected to assume a reinsurance contract, the parties' rights and obligations shall be governed by paragraph (a).

(c) If the association does not elect to assume a reinsurance contract by the election date pursuant to paragraph (a), the association shall have no rights or obligations, in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

(d) When policies, contracts, or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies, contracts or annuities may also be transferred by the association, in the case of contracts assumed under paragraph (a), subject to the following:

(i) Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred shall not

cover any new policies of insurance, contracts or annuities in addition to those transferred;

(ii) The obligations described in paragraph (a) of this subsection shall no longer apply with respect to matters arising after the effective date of the transfer; and

(iii) Notice shall be given in writing, return receipt requested, by the transferring party to the affected reinsurer not less than thirty (30) days prior to the effective date of the transfer.

(e) The provisions of this subsection shall supersede the provisions of any law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of the order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver shall remain entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation (subject to applicable setoff provisions).

(f) Except as otherwise provided in this subsection, nothing in this subsection shall alter or modify the terms and conditions of any reinsurance contract. Nothing in this subsection shall abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract. Nothing in this subsection shall give a policyholder, contract

owner, enrollee, certificate holder or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract. Nothing in this subsection shall limit or affect the association's rights as a creditor of the estate against the assets of the estate. Nothing in this subsection shall apply to reinsurance agreements covering property or casualty risks.

(15) The board of directors of the association shall have discretion and may exercise a reasonable business judgment to determine the means by which the association is to provide the benefits of this article in an economical and efficient manner.

(16) Where the association has arranged or offered to provide the benefits of this article to a covered person under a plan or arrangement that fulfills the association's obligations under this article, the person shall not be entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(17) Venue in a suit against the association arising under the article shall be in Hinds County, Mississippi. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this article.

(18) In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts under subsections (1) and (2) of this section, the

association may * * * issue substitute coverage for a policy or contract that provides an interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(a) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for (i) a fixed interest rate or (ii) payment of dividends with minimum guarantees or (iii) a different method for calculating interest or changes in value;

(b) There is no requirement for evidence of insurability, waiting period or other exclusion that would not have applied under the replaced policy or contract; and

(c) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

SECTION 6. Section 83-23-217, Mississippi Code of 1972, is amended as follows:

83-23-217. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than thirty (30) days after prior written notice to the member insurers

and shall accrue interest at twelve percent (12%) per annum on and after the due date.

(2) There shall be two (2) classes of assessments, as follows:

(a) Class A assessments shall be authorized and called for the purpose of meeting administrative and legal costs and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer.

(b) Class B assessments shall be authorized and called to the extent necessary to carry out the powers and duties of the association under Section 83-23-215 with regard to an impaired or insolvent insurer.

(3) (a) The amount of * * * a Class A assessment shall be determined by the board and may be authorized and called on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future Class B assessments. The total of all nonpro rata assessments shall not exceed * * * Five Hundred Dollars ($500.00) per member insurer in any one (1) calendar year. * * *

(b) The amount of a Class B assessment, except for assessments related to long-term care insurance, shall be allocated for assessment purposes between the accounts and among the subaccounts of the life insurance and annuity account, pursuant to an allocation formula which may be based on the

premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(c) The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation and approved by the commissioner. The methodology shall provide for fifty percent (50%) of the assessment to be allocated to accident and health member insurers and fifty percent (50%) to be allocated to life and annuity member insurers.

(* * *d) Class B assessments against member insurers for each account and subaccount shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three (3) most recent calendar years for which information is available preceding the year in which the member insurer became insolvent (or, in the case of an assessment with respect to an impaired insurer, the three (3) most recent calendar years for which information is available preceding the year in which the member insurer became impaired) bears to premiums received on business in this state for those calendar years by all assessed member insurers.

(* * *e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be authorized or called until

necessary to implement the purposes of this article. Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty (180) days after the assessment is authorized.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the association.

(5) (a) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the total of all assessments authorized by the association with respect to a member insurer for each subaccount of the life insurance and annuity account and for the health account shall not in * * * one (1) calendar year exceed two

percent (2%) of that member insurer's average annual premiums received in this state on the policies and contracts covered by the subaccount or account during the three (3) calendar years preceding the year in which the member insurer became an impaired or insolvent insurer.

(ii) If two (2) or more assessments are authorized in one (1) calendar year with respect to member insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in subparagraph (i) of this paragraph shall be equal and limited to the higher of the three-year average annual premiums for the applicable subaccount or account as calculated pursuant to this section.

(iii) If the maximum assessment, together with the other assets of the association in an account, does not provide in one (1) year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this article.

(b) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(c) If the maximum assessment for a subaccount of the life and annuity account in one (1) year does not provide an

amount sufficient to carry out the responsibilities of the association, then pursuant to subsection (3)(b) of this section, the board shall assess the other subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in subsection (5)(a) above.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each member insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to the account, including assets accruing from assignment, subrogation, net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses claims.

(7) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance or health maintenance organization business within the scope of this article, to consider the amount reasonably necessary to meet its assessment obligations under this article.

(8) The association shall issue to each member insurer paying an assessment under this article, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All

outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

(9) (a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment shall be available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(b) Within sixty (60) days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within thirty (30) days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty (60) days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the commissioner.

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the commissioner for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member * * * insurer. Interest on a refund due a protesting member insurer shall be paid at the rate actually earned by the association.

(10) The association may request information of member insurers in order to aid in the exercise of its power under this section and member insurers shall promptly comply with a request.

SECTION 7. Section 83-23-221, Mississippi Code of 1972, is amended as follows:

83-23-221. (1) In addition to the duties and powers enumerated elsewhere in this article, the commissioner shall:

(a) Upon request of the board of directors, provide the association with a statement of the premiums in this and any other appropriate states for each member insurer; and

(b) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time; notice to the impaired insurer shall constitute notice to its shareholders, if any; the failure of the impaired insurer to

promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this article.

(2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact * * * business in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. The forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than One Hundred Dollars ($100.00) per month.

(3) A final action of the board of directors or the association may be appealed to the commissioner by a member insurer if the appeal is taken within sixty (60) days of its receipt of notice of the final action being appealed. A final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction in accordance with the laws of this state that apply to the actions or orders of the commissioner.

(4) The liquidator, rehabilitator or conservator of an impaired or insolvent insurer may notify all interested persons of the effect of this article.

SECTION 8. Section 83-23-223, Mississippi Code of 1972, is amended as follows:

83-23-223. To aid in the detection and prevention of member insurer insolvencies or impairments:

(1) It shall be the duty of the commissioner;

(a) To notify the commissioners of all the other states, territories of the United States and the District of Columbia within thirty (30) days following the action taken or the date the action occurs, when the commissioner takes any of the following actions against a member insurer:

(i) Revocation of license;

(ii) Suspension of license; or

(iii) Makes a formal order that the * * * member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus or any other account for the security of policy owners, contract owners, certificate holders or creditors.

(b) To report to the board of directors when the commissioner has taken any of the actions set forth in subparagraph (a) or has received a report from any other commissioner indicating that any such action has been taken in another state. The report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

(c) To report to the board of directors when the commissioner has reasonable cause to believe from an examination,

whether completed or in process, of any member insurer that the insurer may be an impaired or insolvent insurer.

(d) To furnish to the board of directors the NAIC Insurance Regulatory Information System (IRIS) ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. The report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the duties and responsibilities of the commissioner regarding the financial condition of member insurers and * * * insurers or health maintenance organizations seeking admission to transact * * * business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any * * * insurer or health maintenance organization seeking to do * * * business in this state. The reports and recommendations shall not be considered public documents.

(4) The board of directors may, upon majority vote, notify the commissioner of any information indicating a member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of member insurer insolvencies.

SECTION 9. Section 83-23-225, Mississippi Code of 1972, is amended as follows:

83-23-225. (1) This article shall not be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records shall be kept of all meetings of the board of directors to discuss the activities of the association in carrying out its powers and duties under Section 83-23-215. The records of the association with respect to an impaired or insolvent insurer shall not be disclosed prior to the termination of a liquidation, rehabilitation or conservation proceeding involving the impaired or insolvent insurer, except (a) upon the termination of the impairment or insolvency of the member insurer, or (b) upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities under Section 83-23-227.

(3) For the purpose of carrying out its obligations under this article, the association shall be deemed to be a creditor of

the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to Section 83-23-215(11). Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this article. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for such policies or contracts bear to the reserves that should have been established for all policies of insurance or health benefit plans written by the impaired or insolvent insurer.

(4) As a creditor of the impaired or insolvent insurer as established in subsection (3) of this section and consistent with Section 83-24-67, the association and other similar associations shall be entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this article. If the liquidator has not, within one hundred twenty (120) days of a final determination of insolvency of * * * a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association shall be entitled

to make application to the receivership court for approval of its own proposal to disburse these assets.

(5) (a) Prior to the termination of any liquidation, rehabilitation or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders, contract owners, certificate holders, enrollees and policy owners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. In such a determination, consideration shall be given to the welfare of the policy owners, contract owners, certificate holders and enrollees of the continuing or successor member insurer.

(b) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association with interest thereon for funds expended in carrying out its powers and duties under Section 83-23-215 with respect to * * * the member insurer have been fully recovered by the association.

(6) (a) If an order for liquidation or rehabilitation of * * * a member insurer domiciled in this state has been entered, the receiver appointed under the order shall have a right to recover on behalf of the member insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the member insurer on its capital stock, made at

any time during the five (5) years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (b) through (d).

(b) No such distribution shall be recoverable if the member insurer shows that when paid the distribution was lawful and reasonable, and that the member insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the member insurer to fulfill its contractual obligations.

(c) Any person who was an affiliate that controlled the member insurer at the time the distributions were paid shall be liable up to the amount of distributions received. Any person who was an affiliate that controlled the member insurer at the time the distributions were declared, shall be liable up to the amount of distributions which would have been received if they had been paid immediately. If two (2) or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

(e) If any person liable under paragraph (c) is insolvent, all its affiliates that controlled it at the time the distribution was paid, shall be jointly and severally liable for

any resulting deficiency in the amount recovered from the insolvent affiliate.

SECTION 10. Section 83-23-235, Mississippi Code of 1972, is amended as follows:

83-23-235. (1) No person, including * * * a member insurer, agent or affiliate of * * * a member insurer shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, which uses the existence of the Insurance Guaranty Association of this state for the purpose of sales, solicitation or inducement to purchase any form of insurance or other coverage covered by the Mississippi Life and Health Insurance Guaranty Association Act. However, this section shall not apply to the Mississippi Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance or coverage by a health maintenance organization.

(2) Within one hundred eighty (180) days of April 9, 1985, the association shall prepare a summary document describing the general purposes and current limitations of the article and complying with subsection (3) of this section. This document

shall be submitted to the commissioner for approval. At the expiration of the sixtieth day after the date on which the commissioner approves the document, * * * a member insurer may not deliver a policy or contract to a policy * * * owner, contract owner, certificate holder or enrollee unless the summary document is delivered to the policy * * * owner, contract owner, certificate holder or enrollee at the time of delivery of the policy or contract. The document shall also be available upon request by a policy owner, contract owner, certificate holder or enrollee. The distribution, delivery or contents or interpretation of this document does not guarantee that either the policy or the contract or the * * * policy * * * owner, contract owner, certificate holder or enrollee is covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to the article may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, enrollee or insured any greater rights than those stated in this article.

(3) The document prepared under subsection (2) shall contain a clear and conspicuous disclaimer on its face. The commissioner shall establish the form and content of the disclaimer. The disclaimer shall:

(a) State the name and address of the Life and Health Insurance Guaranty Association and insurance department;

(b) Prominently warn the policy * * * owner, contract owner, certificate holder or enrollee that the Life and Health Insurance Guaranty Association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in this state;

(c) State the types of policies or contracts for which guaranty funds will provide coverage;

(d) State that the member insurer and its agents are prohibited by law from using the existence of the Life and Health Insurance Guaranty Association for the purpose of sales, solicitation or inducement to purchase any form of insurance or health maintenance organization coverage;

(e) State that the policy * * * owner, contract owner, certificate holder or enrollee should not rely on coverage under the Life and Health Insurance Guaranty Association when selecting an insurer or health maintenance organization;

(f) Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this article; and

(g) Provide other information as directed by the commissioner including, but not limited to, sources for information about the financial condition of insurers provided that the information is not proprietary and is subject to disclosure under that state's public records law.

(4) A member insurer shall retain evidence of compliance with subsection (2) for so long as the policy or contract for which the notice is given remains in effect.

SECTION 11. The following shall be codified as Section 83-23-239, Mississippi Code of 1972:

83-23-239. The amendments made to this article by Senate Bill No. 2227, 2020 Regular Session, shall not apply to any member insurer that, before the effective date of those amendments, has been placed under an order of liquidation with a finding of insolvency.

SECTION 12. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2230

Description: Uninsured Motorist Act; provide coverage for claims involving vehicles owned or operated by persons protected by the MS Tort Claims Act.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	01/31	(S) Referred To Insurance
2	02/12	(S) Title Suff Do Pass
3	02/13	(S) Passed {Vote}
4	02/17	(S) Transmitted To House
5	02/21	(H) Referred To Insurance
6	05/27	(H) Title Suff Do Pass
7	05/28	(H) Passed {Vote}
8	05/29	(H) Returned For Enrolling
9	06/03	(S) Enrolled Bill Signed
10	06/03	(H) Enrolled Bill Signed
11	06/10	Approved by Governor

Code Section: A 083-0011-0101

----- Additional Information -----

Senate Committee: Insurance
House Committee: Insurance

Principal Author: Boyd
Additional Authors: Michel

Title: AN ACT TO AMEND SECTION 83-11-101, MISSISSIPPI CODE OF 1972, TO PROVIDE COVERAGE UNDER THE UNINSURED MOTORIST ACT FOR CLAIMS INVOLVING VEHICLES OWNED OR OPERATED BY A PERSON OR ENTITY PROTECTED BY IMMUNITY UNDER THE MISSISSIPPI TORT CLAIMS ACT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Boyd, Michel To: Insurance

SENATE BILL NO. 2230

AN ACT TO AMEND SECTION 83-11-101, MISSISSIPPI CODE OF 1972, TO PROVIDE COVERAGE UNDER THE UNINSURED MOTORIST ACT FOR CLAIMS INVOLVING VEHICLES OWNED OR OPERATED BY A PERSON OR ENTITY PROTECTED BY IMMUNITY UNDER THE MISSISSIPPI TORT CLAIMS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-11-101, Mississippi Code of 1972, is amended as follows:

83-11-101. (1) No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1967, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for bodily injury or death, or would be legally entitled to recover as damages for bodily injury or death but for the immunity provided under the Mississippi Tort Claims Act, from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the Commissioner of Insurance; however, at

the option of the insured, the uninsured motorist limits may be increased to limits not to exceed those provided in the policy of bodily injury liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy, any replacement policy with the same or substantially similar terms and conditions issued by the same insurer, and any transferred policy with the same or substantially similar terms and conditions issued by a licensed affiliate of the original insurer where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer or a licensed affiliate of the original insurer in the same holding company.

(2) No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1980, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for property damage, or would be legally entitled to recover as damages for property damage but for the immunity provided under the Mississippi Tort Claims Act, from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle

Safety Responsibility Law, as amended, under provisions approved by the Commissioner of Insurance; however, at the option of the insured, the uninsured motorist limits may be increased to limits not to exceed those provided in the policy of property damage liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy, any replacement policy with the same or substantially similar terms and conditions issued by the same insurer, and any transferred policy with the same or substantially similar terms and conditions issued by a licensed affiliate of the original insurer where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer or a licensed affiliate of the original insurer in the same holding company.

The property damage provision may provide an exclusion for the first Two Hundred Dollars ($200.00) of such property damage; however, the uninsured motorist provision need not insure any liability for property damage, for which loss the policyholder has been compensated by insurance or otherwise.

(3) The insured may reject the property damage liability insurance coverage required by subsection (2) and retain the

bodily injury liability insurance coverage required by subsection (1), but if the insured rejects the bodily injury liability coverage he may not retain the property damage liability coverage. No insured may have property damage liability insurance coverage under this section unless he also has bodily injury liability insurance coverage under this section.

(4) In the course of the sale or issuance of any automobile liability insurance policy, insurers shall inform the named insured or applicant, on a form approved by the Department of Insurance, of the benefits of and reasons for electing to purchase uninsured motorist coverage. If the insured named in the policy wishes to reject uninsured motorist coverage, such form shall be signed by or on behalf of the named insured. If this form is signed by or on behalf of the named insured, it is binding upon all persons insured by the automobile liability insurance policy and it shall be presumed that there was an informed, knowing rejection and waiver of uninsured motorist coverage.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2283

Description: School districts; revise employees and administrators subject to conflict-of-interest provisions.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/07	(S) Referred To Education
2	02/27	(S) Title Suff Do Pass
3	03/04	(S) Passed {Vote}
4	03/05	(S) Transmitted To House
5	03/17	(H) Referred To Education
6	05/28	(H) Title Suff Do Pass
7	06/02	(H) Passed {Vote}
8	06/03	(H) Returned For Enrolling
9	06/04	(S) Enrolled Bill Signed
10	06/04	(H) Enrolled Bill Signed
11	06/11	Approved by Governor

Code Section: A 037-0011-0027

----- Additional Information -----

Senate Committee: Education
House Committee: Education

Principal Author: Parker
Additional Authors: Blackwell, McLendon

Title: AN ACT TO AMEND SECTION 37-11-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CONFLICT-OF-INTEREST PROVISIONS APPLICABLE TO SCHOOL DISTRICTS DO NOT APPLY TO EMPLOYEES WITH NO AUTHORITY TO NEGOTIATE SCHOOL DISTRICT CONTRACTS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Parker, Blackwell, McLendon To: Education

SENATE BILL NO. 2283

AN ACT TO AMEND SECTION 37-11-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CONFLICT-OF-INTEREST PROVISIONS APPLICABLE TO SCHOOL DISTRICTS DO NOT APPLY TO EMPLOYEES WITH NO AUTHORITY TO NEGOTIATE SCHOOL DISTRICT CONTRACTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-11-27, Mississippi Code of 1972, is amended as follows:

37-11-27. It shall be unlawful for any member of the board of trustees of any school district, any member of the county board of education, the county superintendent of education, or any superintendent, principal * * * or other school district administrator with authority to negotiate school district contracts, to have or own any direct or indirect interest individually or as agent or employee of any person, partnership, firm, or corporation in any contract made or let by the county board of education, the county superintendent of education or the board of trustees of the school district for the construction, repair, or improvement of any school facility, the furnishing of any supplies, materials, or other articles, the doing of any

public work or the transportation of children or upon any subcontract arising therefrom or connected therewith in any manner. The board of trustees of any school district shall be authorized to contract with a teacher or school district employee to perform extra work without being in violation of the provisions of this section. The board of trustees shall make a case-by-case determination of the possible conflicts of interest arising from any extra work contracts and such decision by the board shall be final. Any contract entered into in violation of the provisions of this section shall be void and of no effect. Any person who shall authorize or enter into any contract in violation of the provisions hereof, or who shall knowingly or * * * willfully pay out or receive any money upon any such contract shall be civilly liable for the amount so paid or received, and, in the case of an official who has furnished a bond, the surety upon such bond shall likewise be liable for such amount. In addition thereto, any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment, in the discretion of the court.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2301

Description: Auto insurance; remove repealer on statute requiring repair business or lienholder to be added as payees on claim checks.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/07	(S) Referred To Insurance
2	02/12	(S) Title Suff Do Pass
3	02/13	(S) Passed {Vote}
4	02/17	(S) Transmitted To House
5	02/21	(H) Referred To Insurance
6	05/27	(H) Title Suff Do Pass
7	05/28	(H) Passed {Vote}
8	05/29	(H) Returned For Enrolling
9	06/03	(S) Enrolled Bill Signed
10	06/03	(H) Enrolled Bill Signed
11	06/10	Approved by Governor

Code Section: A 083-0011-0551

----- Additional Information -----

Senate Committee: Insurance
House Committee: Insurance

Principal Author: McLendon
Additional Authors: Michel

Title: AN ACT TO AMEND SECTION 83-11-551, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE PROVISION REQUIRING AN INSURER PAYING AN AUTOMOBILE INSURANCE CLAIM TO ADD THE BUSINESS REPAIRING THE AUTOMOBILE OR THE LIENHOLDER AS A PAYEE ON THE CHECK; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) McLendon, Michel To: Insurance

SENATE BILL NO. 2301

AN ACT TO AMEND SECTION 83-11-551, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE PROVISION REQUIRING AN INSURER PAYING AN AUTOMOBILE INSURANCE CLAIM TO ADD THE BUSINESS REPAIRING THE AUTOMOBILE OR THE LIENHOLDER AS A PAYEE ON THE CHECK; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-11-551, Mississippi Code of 1972, is amended as follows:

83-11-551. (1) In cases in which there is not a total loss, when there are one or more lienholders shown in the policy or confirmed in writing by the insured before the loss, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in Section 83-11-1, shall add as a payee on the check, in addition to the name of the insured, the name of the business or other entity repairing the automobile or the name of the lienholder or lienholders.

(2) In cases of a total loss, when there are one or more lienholders (a) shown in the policy, (b) confirmed in writing by

the insured before the loss, or (c) shown on the vehicle title recorded with the Mississippi Department of Revenue, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in Section 83-11-1, shall add as a payee on the check, in addition to the name of the insured, the name of the lienholder or lienholders.

(3) If the insured disputes the existence of any lien, it is the insured's responsibility to have the liens released. When payment is made to a lienholder, the lienholder shall pay any balance owed to the debtor within thirty (30) days after receipt of the check. However, in the case of a total loss, the insurer may issue separate checks to the lienholder and to the insured for the amount of each party's financial interest in the vehicle. This section shall not apply to the repair or replacement of glass in the vehicle.

(4) If an insurance company makes a total loss settlement on a motor vehicle, the owner or lienholder of the motor vehicle shall forward the properly endorsed certificate of title to the insurance company within fifteen (15) days after receipt of the settlement funds.

(5) (a) If an insurance company is unable to obtain the properly endorsed certificate of title within thirty (30) days after disbursing a total loss settlement payment for a motor vehicle that does not have a lien or encumbrance, the insurance

company or its agent may request the Department of Revenue to issue a salvage certificate of title or a parts-only certificate of title for the vehicle.

(b) The request under paragraph (a) of this subsection shall:

(i) Be submitted on each form required by and provided by the Department of Revenue;

(ii) Document that the insurance company has made at least two (2) written attempts to obtain the certificate of title and include the documentation with the request;

(iii) Include any fees applicable to the issuance of a salvage certificate of title or a parts-only certificate of title; and

(iv) Be signed under penalty of perjury.

(6) (a) If an insurance company is unable to obtain the properly endorsed certificate of title within thirty (30) days after disbursing a total loss settlement payment for a motor vehicle that has a lien or encumbrance, the insurance company or its agent shall submit documentation to the Department of Revenue from the claims file that establishes the lienholder's interest was protected in the total loss indemnity payment for the claim.

(b) The documentation under paragraph (a) of this subsection shall be:

(i) Submitted with a request for a salvage certificate of title or a parts-only certificate of title for the vehicle; and

(ii) The requirements under subsection (5)(b) of this section.

(7) Upon receipt of a properly endorsed certificate of title or a properly executed request under subsection (5) of this section, the Department of Revenue shall issue a salvage certificate of title or a parts-only certificate of title for the vehicle in the name of the insurance company.

(8) The Department of Revenue may promulgate rules, regulations and forms for the administration of subsections (4) through (6) of this section.

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2319

Description: Sales tax; clarify the description of logging equipment that qualifies for a reduced sales tax rate.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: Passage

History of Actions:

1	02/07	(S) Referred To Finance
2	02/18	(S) Title Suff Do Pass
3	03/05	(S) Passed {Vote}
4	03/06	(S) Transmitted To House
5	03/13	(H) Referred To Ways and Means
6	06/09	(H) Title Suff Do Pass
7	06/10	(H) Passed {Vote}
8	06/11	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 027-0065-0017

----- Additional Information -----

Senate Committee: Finance
House Committee: Ways and Means

Principal Author: Branning

Title: AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DESCRIPTION OF LOGGING EQUIPMENT THAT QUALIFIES FOR A REDUCED RATE OF SALES TAX; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Branning To: Finance

SENATE BILL NO. 2319

AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DESCRIPTION OF LOGGING EQUIPMENT THAT QUALIFIES FOR A REDUCED RATE OF SALES TAX; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-65-17, Mississippi Code of 1972, is amended as follows:

27-65-17. (1) (a) Except as otherwise provided in this section, upon every person engaging or continuing within this state in the business of selling any tangible personal property whatsoever there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the gross proceeds of the retail sales of the business.

(b) Retail sales of farm tractors and parts and labor used to maintain and/or repair such tractors shall be taxed at the rate of one and one-half percent (1-1/2%) when made to farmers for agricultural purposes.

(c) (i) Retail sales of farm implements sold to farmers and used directly in the production of poultry, ratite,

domesticated fish as defined in Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes, and parts and labor used to maintain and/or repair such implements, shall be taxed at the rate of one and one-half percent (1-1/2%) when used on the farm.

(ii) The one and one-half percent (1-1/2%) rate shall also apply to all equipment used in logging, pulpwood operations or tree farming, and parts and labor used to maintain and/or repair such equipment, which is either:

1. Self-propelled, or

2. Mounted so that it is permanently attached to other equipment which is self-propelled or * * * attached to other equipment drawn by a vehicle which is self-propelled.

In order to be eligible for the rate of tax provided for in this subparagraph (ii), such sales must be made to a professional logger. For the purposes of this subparagraph (ii), a "professional logger" is a person, corporation, limited liability company or other entity, or an agent thereof, who possesses a professional logger's permit issued by the Department of Revenue and who presents the permit to the seller at the time of purchase. The department shall establish an application process for a professional logger's permit to be issued, which shall include a requirement that the applicant submit a copy of documentation verifying that the applicant is certified according to Sustainable Forestry Initiative guidelines. Upon a determination that an

applicant is a professional logger, the department shall issue the applicant a numbered professional logger's permit.

(d) Except as otherwise provided in subsection (3) of this section, retail sales of aircraft, automobiles, trucks, truck-tractors, semitrailers and manufactured or mobile homes shall be taxed at the rate of three percent (3%).

(e) Sales of manufacturing machinery or manufacturing machine parts when made to a manufacturer or custom processor for plant use only when the machinery and machine parts will be used exclusively and directly within this state in manufacturing a commodity for sale, rental or in processing for a fee shall be taxed at the rate of one and one-half percent (1-1/2%).

(f) Sales of machinery and machine parts when made to a technology intensive enterprise for plant use only when the machinery and machine parts will be used exclusively and directly within this state for industrial purposes, including, but not limited to, manufacturing or research and development activities, shall be taxed at the rate of one and one-half percent (1-1/2%). In order to be considered a technology intensive enterprise for purposes of this paragraph:

(i) The enterprise shall meet minimum criteria established by the Mississippi Development Authority;

(ii) The enterprise shall employ at least ten (10) persons in full-time jobs;

(iii) At least ten percent (10%) of the workforce in the facility operated by the enterprise shall be scientists, engineers or computer specialists;

(iv) The enterprise shall manufacture plastics, chemicals, automobiles, aircraft, computers or electronics; or shall be a research and development facility, a computer design or related facility, or a software publishing facility or other technology intensive facility or enterprise as determined by the Mississippi Development Authority;

(v) The average wage of all workers employed by the enterprise at the facility shall be at least one hundred fifty percent (150%) of the state average annual wage; and

(vi) The enterprise must provide a basic health care plan to all employees at the facility.

(g) Sales of materials for use in track and track structures to a railroad whose rates are fixed by the Interstate Commerce Commission or the Mississippi Public Service Commission shall be taxed at the rate of three percent (3%).

(h) Sales of tangible personal property to electric power associations for use in the ordinary and necessary operation of their generating or distribution systems shall be taxed at the rate of one percent (1%).

(i) Wholesale sales of beer shall be taxed at the rate of seven percent (7%), and the retailer shall file a return and compute the retail tax on retail sales but may take credit for the

amount of the tax paid to the wholesaler on said return covering the subsequent sales of same property, provided adequate invoices and records are maintained to substantiate the credit.

(j) Wholesale sales of food and drink for human consumption to full-service vending machine operators to be sold through vending machines located apart from and not connected with other taxable businesses shall be taxed at the rate of eight percent (8%).

(k) Sales of equipment used or designed for the purpose of assisting disabled persons, such as wheelchair equipment and lifts, that is mounted or attached to or installed on a private carrier of passengers or light carrier of property, as defined in Section 27-51-101, at the time when the private carrier of passengers or light carrier of property is sold shall be taxed at the same rate as the sale of such vehicles under this section.

(l) Sales of the factory-built components of modular homes, panelized homes and precut homes, and panel constructed homes consisting of structural insulated panels, shall be taxed at the rate of three percent (3%).

(m) Sales of materials used in the repair, renovation, addition to, expansion and/or improvement of buildings and related facilities used by a dairy producer shall be taxed at the rate of three and one-half percent (3-1/2%). For the purposes of this paragraph (m), "dairy producer" means any person engaged in the production of milk for commercial use.

(2) From and after January 1, 1995, retail sales of private carriers of passengers and light carriers of property, as defined in Section 27-51-101, shall be taxed an additional two percent (2%).

(3) A manufacturer selling at retail in this state shall be required to make returns of the gross proceeds of such sales and pay the tax imposed in this section.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2328

Description: Agriculture; revise loans for agribusinesses and obligation bonds for Emerging Crops Fund.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/07	(S) Referred To Finance
2	02/20	(S) Title Suff Do Pass Comm Sub
3	03/05	(S) Committee Substitute Adopted
4	03/05	(S) Passed {Vote}
5	03/06	(S) Transmitted To House
6	03/13	(H) Referred To Ways and Means
7	06/09	(H) Title Suff Do Pass
8	06/10	(H) Passed {Vote}
9	06/10	(H) Motion to Reconsider Entered (Hopkins, Lamar, Steverson)
10	06/11	(H) Motion to Reconsider W/Drawn
11	06/11	(H) Returned For Enrolling
12	06/17	(S) Enrolled Bill Signed
13	06/17	(H) Enrolled Bill Signed
14	06/23	Approved by Governor

Code Section: A 069-0002-0013, A 069-0002-0019

----- Additional Information -----

Senate Committee: Finance
House Committee: Ways and Means

Principal Author: Younger
Additional Authors: Moran

Title: AN ACT TO AMEND SECTIONS 69-2-13 AND 69-2-19, MISSISSIPPI CODE OF 1972, TO REVISE LOANS FOR AGRIBUSINESSES FROM EMERGING CROPS FUND AND TO REVISE ISSUANCE OF GENERAL OBLIGATION BONDS FOR EMERGING CROPS FUND; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Younger, Moran To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2328

AN ACT TO AMEND SECTIONS 69-2-13 AND 69-2-19, MISSISSIPPI CODE OF 1972, TO REVISE LOANS FOR AGRIBUSINESSES FROM EMERGING CROPS FUND AND TO REVISE ISSUANCE OF GENERAL OBLIGATION BONDS FOR EMERGING CROPS FUND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-2-13, Mississippi Code of 1972, is amended as follows:

69-2-13. (1) There is hereby established in the State Treasury a fund to be known as the "Emerging Crops Fund," which shall be used to pay the interest on loans made to farmers for nonland capital costs of establishing production of emerging crops on land in Mississippi, and to make loans and grants which are authorized under this section to be made from the fund. The fund shall be administered by the Mississippi Development Authority. A board comprised of the directors of the authority, the Mississippi Cooperative Extension Service, the Mississippi Small Farm Development Center and the Mississippi Agricultural and Forestry Experiment Station, or their designees, shall develop definitions, guidelines and procedures for the implementation of this chapter.

Funds for the Emerging Crops Fund shall be provided from the issuance of bonds or notes under Sections 69-2-19 through 69-2-37 and from repayment of interest loans made from the fund.

(2) (a) The Mississippi Development Authority shall develop a program which gives fair consideration to making loans for the processing and manufacturing of goods and services by agribusiness, greenhouse production horticulture, and small business concerns. It is the policy of the State of Mississippi that the Mississippi Development Authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness, greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars ($1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which receive monies

pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made hereunder and to establish and assess reasonable fees, including, but not limited to, liquidation expenses.

(d) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(3) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for the following programs of loans to be made to agribusiness or greenhouse production horticulture enterprises for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusiness or greenhouse production horticulture enterprises by private institutions. Monies to make such loans by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(b) The Mississippi Development Authority may make loans to agribusiness or greenhouse production horticulture enterprises. The amount of any loan to any single enterprise under this paragraph (b) shall not exceed twenty percent (20%) of the total cost of the project for which financing is sought or * * * Two Hundred Fifty Thousand Dollars ($250,000.00),

whichever is less. No interest shall be charged on such loans, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(c) The Mississippi Development Authority also may make loans under this subsection (3) to existing agribusiness or greenhouse production horticulture enterprises for the purpose of assisting such enterprises to make upgrades, renovations, repairs and other improvements to their equipment, facilities and operations, which shall not exceed * * * Two Hundred Fifty Thousand Dollars ($250,000.00) or thirty percent (30%) of the total cost of the project for which financing is sought, whichever is less. No interest shall be charged on loans made under this paragraph, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(d) The maximum aggregate amount of loans that may be made under this subsection (3) to any one (1) agribusiness shall be not more than * * * Five Hundred Thousand Dollars ($500,000.00).

(4) (a) Through June 30, 2010, the Mississippi Development Authority may loan or grant to qualified planning and development districts, and to small business investment corporations, bank-based community development corporations, the Recruitment and Training Program, Inc., the City of Jackson Business Development

Loan Fund, the Lorman Southwest Mississippi Development Corporation, the West Jackson Community Development Corporation, the East Mississippi Development Corporation, and other entities meeting the criteria established by the Mississippi Development Authority (all referred to hereinafter as "qualified entities"), funds for the purpose of establishing loan revolving funds to assist in providing financing for minority economic development. The monies loaned or granted by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Twenty-nine Million Dollars ($29,000,000.00) in the aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

(i) The business enterprise must be a private, for-profit enterprise.

(ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.

(iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.

(iv) The borrower must demonstrate ability to repay the loan.

(v) The borrower must not be in default of any previous loan from the state or federal government.

(vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

(vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one (1) borrower shall be Two Hundred Fifty Thousand Dollars ($250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars ($500,000.00) shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified

entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its loan revolving fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its loan revolving fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (c) must be repaid to the district's loan revolving fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its loan revolving fund to provide temporary funding under this paragraph (c) on more than two (2) occasions during a calendar year. A planning and development

district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a loan revolving fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the loan revolving fund on the date the district first provides temporary funding during the calendar year.

(d) If the Mississippi Development Authority determines that a planning and development district or qualified entity has provided loans to minority businesses in a manner inconsistent with the provisions of this subsection, then the amount of such loans so provided shall be withheld by the Mississippi Development Authority from any additional grant funds to which the planning and development district or qualified entity becomes entitled under this subsection. If the Mississippi Development Authority determines, after notifying such planning and development district or qualified entity twice in writing and providing such planning and development district or qualified entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this subsection, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing

loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(e) If the Mississippi Development Authority determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority

for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract with federal agencies, state agencies or political subdivisions of the state. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. Monies for such program shall be drawn from the monies allocated under subsection (4) of this section to assist the financing of minority economic development and shall not exceed Three Million Dollars ($3,000,000.00) in the aggregate. The Mississippi Development Authority may promulgate rules and regulations for the operation of the program established pursuant to this subsection. For the purpose of this subsection (5), the term "minority business enterprise" has the meaning assigned such term in subsection (4) of this section.

(6) The Mississippi Development Authority may loan or grant to public entities and to nonprofit corporations funds to defray the expense of financing (or to match any funds available from

other public or private sources for the expense of financing) projects in this state which are devoted to the study, teaching and/or promotion of regional crafts and which are deemed by the authority to be significant tourist attractions. The monies loaned or granted shall be drawn from the Emerging Crops Fund and shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) in the aggregate.

(7) Through June 30, 2006, the Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce funds for the purpose of establishing loan revolving funds and other methods of financing for agribusiness programs administered under the Mississippi Agribusiness Council Act of 1993. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Two Hundred Thousand Dollars ($1,200,000.00) in the aggregate. The Mississippi Department of Agriculture and Commerce shall establish control and auditing procedures for use of these funds. These funds will be used primarily for quick payment to farmers for vegetable and fruit crops processed and sold through vegetable processing plants associated with the Department of Agriculture and Commerce and the Mississippi State Extension Service.

(8) From and after July 1, 1996, the Mississippi Development Authority shall make available to the Mississippi Small Farm Development Center One Million Dollars ($1,000,000.00) to be used

by the center to assist small entrepreneurs as provided in Section 37-101-25, Mississippi Code of 1972. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(9) [Repealed]

(10) The Mississippi Development Authority shall make available to the Small Farm Development Center at Alcorn State University funds in an aggregate amount not to exceed Three Hundred Thousand Dollars ($300,000.00), to be drawn from the cash balance of the Emerging Crops Fund. The Small Farm Development Center at Alcorn State University shall use such funds to make loans to producers of sweet potatoes and cooperatives anywhere in the State of Mississippi owned by sweet potato producers to assist in the planting of sweet potatoes and the purchase of sweet potato production and harvesting equipment. A report of the loans made under this subsection shall be furnished by January 15 of each year to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

(11) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce "Make Mine Mississippi" program an amount not to exceed One Hundred Fifty Thousand Dollars ($150,000.00) to be drawn from the cash balance of the Emerging Crops Fund.

(12) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and

Commerce an amount not to exceed One Hundred Fifty Thousand Dollars ($150,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for the rehabilitation and maintenance of the Mississippi Farmers Central Market in Jackson, Mississippi.

(13) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed Twenty-five Thousand Dollars ($25,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for advertising purposes related to the Mississippi Farmers Central Market in Jackson, Mississippi.

(14) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loan guaranties to be made on behalf of any nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code and certified by the United States Department of the Treasury as a community development financial institution for the purpose of encouraging the extension of financing to such an entity which financing the entity will use to make funds available to other entities for the purpose of making loans available in low-income communities in Mississippi. Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Two Million Dollars ($2,000,000.00) in the aggregate. The amount of a loan guaranty on behalf of such an entity under this subsection (14)

shall not exceed Two Million Dollars ($2,000,000.00). Assistance received by an entity under this subsection (14) shall not disqualify the entity from obtaining any other assistance under this chapter.

(b) An entity desiring assistance under this subsection (14) must submit an application to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

(c) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (14), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (14).

(15) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of grants to agribusiness enterprises that process, dry, store or ship peanuts and if the enterprise has invested prior to April 17, 2009, a minimum of Six Million Dollars ($6,000,000.00) in land, facilities and equipment in this state that are utilized to process, dry, store or ship peanuts. Monies to make such grants by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Dollars ($1,000,000.00) in the aggregate. The amount of a

grant under this subsection (15) shall not exceed One Million Dollars ($1,000,000.00).

(b) An entity desiring assistance under this subsection (15) must submit an application to the Mississippi Development Authority. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the Mississippi Development Authority.

(c) As a condition of the receipt of a grant under this subsection (15), an entity must agree to remain in business in this state for not less than five (5) years and must meet other conditions established by the Mississippi Development Authority to ensure that the assistance results in an economic benefit to the state. The Mississippi Development Authority shall require that binding commitments be entered into requiring that:

(i) The minimum requirements provided for in this subsection (15) and the conditions established by the Mississippi Development Authority are met; and

(ii) If such commitments and conditions are not met, all or a portion of the funds provided pursuant to this subsection (15) shall be repaid.

(d) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (15), and the Mississippi

Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (15).

(16) (a) The Mississippi Development Authority, in addition to the other programs described in this section, shall provide for a program of loan guaranties to be made on behalf of certain agribusinesses engaged in sweet potato growing and farming for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusinesses by lenders. The amount of a loan guaranty made on behalf of such an agribusiness shall be ninety percent (90%) of the amount of assistance made available by a lender for the purposes authorized under this subsection (16). Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Seventeen Million Dollars ($17,000,000.00) in the aggregate.

(b) In order to be eligible for assistance under this subsection (16) an agribusiness must:

(i) Have been actively engaged in sweet potato growing and farming in this state before January 1, 2010;

(ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;

(iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the

outstanding balance of any assistance received under this subsection (16); and

(iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c) (i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;

2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;

3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;

4. The amount of assistance requested;

5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

6. Any other information required by the lender and/or the MDA.

(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

(i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars ($1,700.00) per acre and shall exclude any machinery and equipment costs.

(ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.

(iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

(iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the person or entity from obtaining assistance under any other program described in this section.

(f) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (16), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (16).

SECTION 2. Section 69-2-19, Mississippi Code of 1972, is amended as follows:

69-2-19. (1) The Mississippi Development Authority is authorized, at one time, or from time to time, to declare by resolution the necessity for issuance of negotiable general obligation bonds of the State of Mississippi to provide funds for the Emerging Crops Fund established in Section 69-2-13. Upon the adoption of a resolution by the board, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by Sections 69-2-19 through 69-2-39, the authority

shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of same, the State Bond Commission, in its discretion, shall act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under Sections 69-2-19 through 69-2-39 shall not exceed * * * One Hundred Fourteen Million Dollars ($114,000,000.00) in the aggregate; however:

(a) An additional amount of bonds may be issued under Sections 69-2-19 through 69-2-39 in an amount not to exceed Two Million Dollars ($2,000,000.00), and the proceeds of any such additional bonds shall be used solely for the purposes described in Section 69-2-13(14); and

(b) An additional amount of bonds may be issued under Sections 69-2-19 through 69-2-39 in an amount not to exceed Seventeen Million Dollars ($17,000,000.00), and the proceeds of such additional bonds shall be used solely for the purposes described in Section 69-2-13(16).

(2) No bonds may be issued under Sections 69-2-19 through 69-2-39 after October 1, * * * 2023.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2353

Description: Critical Needs Teacher Forgivable Loan Program; extend repealer on.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/13	(S) Referred To Education; Appropriations
2	02/27	(S) DR - TSDPCS: ED To AP
3	03/03	(S) Title Suff Do Pass Comm Sub
4	03/04	(S) Committee Substitute Adopted
5	03/04	(S) Passed {Vote}
6	03/05	(S) Transmitted To House
7	03/17	(H) Referred To Education; Appropriations
8	05/28	(H) DR - TSDP: ED To AP
9	06/02	(H) DR - TSDP: AP To ED
10	06/02	(H) Title Suff Do Pass
11	06/10	(H) Passed {Vote}
12	06/11	(H) Returned For Enrolling
13	06/17	(S) Enrolled Bill Signed
14	06/17	(H) Enrolled Bill Signed
15	06/23	Approved by Governor

Code Section: A 037-0106-0055

----- Additional Information -----

Senate Committee: Education, Appropriations
House Committee: Education, Appropriations

Principal Author: DeBar
Additional Authors: Younger, Butler

Title: AN ACT TO AMEND SECTION 37-106-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE PROVISION CREATING THE CRITICAL NEEDS TEACHER FORGIVABLE LOAN PROGRAM; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) DeBar, Younger, Butler

To: Education; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2353

AN ACT TO AMEND SECTION 37-106-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE PROVISION CREATING THE CRITICAL NEEDS TEACHER FORGIVABLE LOAN PROGRAM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-106-55, Mississippi Code of 1972, is amended as follows:

37-106-55. (1) There is established the "Critical Needs Teacher Forgivable Loan Program," the purpose of which is to attract qualified teachers to those geographical areas of the state and those subject areas of the curriculum where there exists a critical shortage of teachers by awarding forgivable loans to persons declaring an intention to serve in the teaching field who actually render service to the state while possessing an appropriate teaching license.

(2) Individuals shall not be eligible to enroll in the Critical Needs Teacher Scholarship Program after the 2014-2015 academic year, and in subsequent years individuals are encouraged to apply to the Teaching Fellows Program established in Section

37-106-77. Any individual who is enrolled in or accepted for enrollment at a teacher education program approved by the State Board of Education or other program at a baccalaureate degree-granting institution of higher learning in the State of Mississippi and has a passing score on the Praxis I Basic Skills Test who expresses in writing an intention to teach in a geographical area of the state or a subject area of the public school curriculum in which there exists a critical shortage of teachers, as designated by the State Board of Education, shall be eligible for a forgivable loan to be applied toward the costs of the individual's college education. The annual amount of the award shall be equal to the total cost for tuition, room and meals, books, materials and fees at the college or university in which the student is enrolled, not to exceed an amount equal to the highest total cost of tuition, room and meals, books, materials and fees assessed by a state institution of higher learning during that school year. Awards made to nonresidents of the state shall not include any amount assessed by the college or university for out-of-state tuition.

(3) Awards granted under the Critical Needs Teacher Forgivable Loan Program shall be available to both full-time and part-time students. Students enrolling on a full-time basis may receive a maximum of two (2) annual awards. The maximum number of awards that may be made to students attending school on a part-time basis, and the maximum time period for part-time

students to complete the number of academic hours necessary to obtain a baccalaureate degree in education, shall be established by rules and regulations promulgated by the board. Critical Needs Teacher Forgivable Loans shall not be based upon an applicant's financial need.

(4) Awards granted under the Critical Needs Teacher Forgivable Loan Program shall be made available to nontraditional licensed teachers showing a documented need for student loan repayment and employed in those school districts designated by the State Board of Education as a geographical area of the state or in a subject area of the curriculum in which there is a critical shortage of teachers. The maximum annual amount of this repayment should not exceed Three Thousand Dollars ($3,000.00) and the maximum time period for repayment shall be no more than four (4) years.

(5) Except in those cases where employment positions may not be available upon completion of licensure requirements, at the beginning of the first school year in which a recipient of a Critical Needs Teacher Forgivable Loan is eligible for employment as a licensed teacher or a nontraditional teacher intern pursuant to Section 37-3-2(6)(b), that person shall begin to render service as a licensed teacher or nontraditional teacher intern in a public school district in a geographical area of the state or a subject area of the curriculum where there is a critical shortage of teachers, as approved by the State Board of Education.

(6) Failure to repay any loan and interest that becomes due shall be cause for the revocation of a person's teaching license by the State Board of Education.

(7) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

(8) The board shall promulgate rules and regulations necessary for the proper administration of the Critical Needs Teacher Forgivable Loan Program.

(9) The State Board of Education shall compile and report, in consultation with the board, an annual report with findings and recommendations to the legislative committees on education by December 1, 2003, and annually thereafter, on the following:

(a) The number of participants in the Critical Needs Teacher Forgivable Loan Program, by institution and by freshman, sophomore, junior and senior level;

(b) The number of nontraditional teacher license program participants;

(c) The number of individuals who completed the Critical Needs Teacher Forgivable Loan Program and the school district in which they are employed;

(d) The number of individuals who are in default of their obligation under the Critical Needs Teacher Forgivable Loan Program and the status of their obligation;

(e) The number of participants in the program who have successfully completed the Praxis examination in their junior year; and

(f) The number of noneducation majors participating in the program.

(10) Where local school districts exhibit financial need, the State Department of Education may, subject to the availability of funds specifically appropriated therefor by the Legislature, provide financial assistance for the recruitment of certified teachers in an amount not to exceed Seventy-five Thousand Dollars ($75,000.00) annually.

This section shall stand repealed on July 1, * * * 2021.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2365

Description: Motor vehicles; provide that ad valorem tax receipts shall not specify legislative session in relation to tag credit.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/13	(S) Referred To Finance
2	02/20	(S) Title Suff Do Pass
3	03/04	(S) Passed {Vote}
4	03/05	(S) Transmitted To House
5	03/17	(H) Referred To Ways and Means
6	06/09	(H) Title Suff Do Pass
7	06/10	(H) Passed {Vote}
8	06/11	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 027-0051-0103

----- Additional Information -----

Senate Committee: Finance
House Committee: Ways and Means

Principal Author: Doty

Title: AN ACT TO AMEND SECTION 27-51-103, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MOTOR VEHICLE AD VALOREM TAX RECEIPTS SHALL NOT SPECIFY ANY PARTICULAR LEGISLATIVE SESSION IN RELATION TO THE TAG CREDIT PROVIDED; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Doty To: Finance

SENATE BILL NO. 2365

AN ACT TO AMEND SECTION 27-51-103, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MOTOR VEHICLE AD VALOREM TAX RECEIPTS SHALL NOT SPECIFY ANY PARTICULAR LEGISLATIVE SESSION IN RELATION TO THE TAG CREDIT PROVIDED; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-51-103, Mississippi Code of 1972, is amended as follows:

27-51-103. (1) From and after January 1, 1995, through June 30, 1995, a taxpayer shall be allowed as a credit towards the tax liability imposed by Chapter 51, Title 27, Mississippi Code of 1972, on the amount of ad valorem taxes due during the taxable year on any private carrier of passengers and light carrier of property owned by him, an amount equal to five percent (5%) of the assessed value of the motor vehicle.

(2) From and after July 1, 1995, a taxpayer shall be allowed as a credit against motor vehicle ad valorem taxes due under Chapter 51, Title 27, Mississippi Code of 1972, on any private carrier of passengers and light carrier of property owned by him, an amount as provided for in subsection (3) of this section.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection, from and after July 1, 1995, the amount of the credit that a taxpayer shall be allowed against motor vehicle ad valorem taxes due under Chapter 51, Title 27, Mississippi Code of 1972, shall be determined by the State Tax Commission for each fiscal year. The amount of the credit shall be promulgated by the commission on or before May 1 prior to each state fiscal year beginning with the state fiscal year beginning on July 1, 1995. In developing the credit, the commission shall establish credit amounts that provide for an equal percentage of dollar credit amounts for private carriers of passengers and light carriers of property in proportion to their assessed value, based on the projected amount of funds in the Motor Vehicle Ad Valorem Tax Reduction Fund that will be available for distribution in such state fiscal year. The commission may calculate the credit in such a manner so as to have surplus funds available in the Motor Vehicle Ad Valorem Tax Reduction Fund for cash-flow needs and monthly shortfalls that might be incurred as a result of unexpected revenue fluctuations; however, in the calculation of the credit in order to make such surplus funds available, the commission shall attempt to create a balance in the Motor Vehicle Ad Valorem Tax Reduction Fund that does not exceed, at the end of any state fiscal year, five percent (5%) of the projected amount of funds that will be available in the Motor Vehicle Ad Valorem Tax Reduction Fund for distribution during such state fiscal year.

(b) From and after July 1, 2009, through June 30, 2010, a taxpayer shall be allowed as a credit towards the tax liability imposed by Chapter 51, Title 27, Mississippi Code of 1972, on the amount of ad valorem taxes due during the taxable year on any private carrier of passengers and light carrier of property owned by him, an amount equal to four and twenty-five one-hundredths percent (4.25%) of the assessed value of the motor vehicle.

(4) Tax credits provided for by this section may be used against motor vehicle ad valorem taxes due under Chapter 51, Title 27, Mississippi Code of 1972, at the time that a taxpayer pays motor vehicle ad valorem taxes to the county tax collector.

(5) Each receipt for motor vehicle ad valorem taxes shall clearly indicate that the credit provided for by this section is granted as a result of legislative action but shall not specify any particular legislative session.

(6) A taxpayer who is delinquent in the payment of motor vehicle ad valorem taxes to the extent that the penalty assessed pursuant to Section 27-51-43, Mississippi Code of 1972, has reached twenty-five percent (25%) of the ad valorem taxes due shall not be eligible to receive the tax credit authorized pursuant to this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2386

Description: PSC; extend repealers, remove Motor Carrier Law references, treat renewable purchases like other power purchases.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/13	(S) Referred To Energy
2	03/03	(S) Title Suff Do Pass
3	03/05	(S) Passed {Vote}
4	03/06	(S) Transmitted To House
5	03/25	(H) Referred To Public Utilities
6	06/09	(H) Title Suff Do Pass As Amended
7	06/16	(H) Passed {Vote}
8	06/17	(H) Returned For Enrolling
9	06/19	(S) Enrolled Bill Signed
10	06/19	(H) Enrolled Bill Signed
11	06/25	Approved by Governor

Amendments:

[H] Committee Amendment No 1Tabled

Code Section: RA 077-0001-0001, R 077-0001-0003, R 077-0001-0005, R 077-0001-0006, RA 077-0001-0011, RA 077-0001-0015, R 077-0001-0025, RA 077-0001-0027, R 077-0001-0029, R 077-0001-0031, R 077-0001-0033, R 077-0001-0035, R 077-0001-0037, R 077-0001-0039, R 077-0001-0041, R 077-0001-0043, R 077-0001-0047, R 077-0001-0049, A 077-0001-0051, A 077-0001-0055, A 077-0003-0093, A 077-0003-0042, RP 077-0001-0017, RP 077-0001-0019, RP 077-0001-0021

----- Additional Information -----

Senate Committee: Energy
House Committee: Public Utilities

Principal Author: Doty

Title: AN ACT TO REENACT SECTIONS 77-1-1, 77-1-3, 77-1-5, 77-1-6, 77-1-11, 77-1-15, 77-1-25, 77-1-27, 77-1-29, 77-1-31, 77-1-33, 77-1-35, 77-1-37, 77-1-39, 77-1-

41, 77-1-43, 77-1-47 AND 77-1-49, MISSISSIPPI CODE OF 1972, WHICH CREATE THE PUBLIC SERVICE COMMISSION AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND REENACTED SECTIONS 77-1-1, 77-1-11, 77-1-15 AND 77-1-27, MISSISSIPPI CODE OF 1972, TO REMOVE REFERENCES TO COMMON OR CONTRACT CARRIER BY MOTOR VEHICLE; TO AMEND SECTION 77-1-51, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THOSE SECTIONS; TO AMEND SECTION 77-1-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THIS SECTION WHICH AUTHORIZES THE COMMISSION AND THE PUBLIC UTILITIES STAFF TO HIRE ATTORNEYS AND CONSULTANTS FOR CERTAIN PROCEEDINGS; TO AMEND SECTION 77-3-93, MISSISSIPPI CODE OF 1972, TO TREAT RENEWABLE PURCHASES LIKE OTHER POWER PURCHASES; TO AMEND SECTION 77-3-42, MISSISSIPPI CODE OF 1972, TO CHANGE THE DATE BY WHICH THE COMMISSION MUST PROVIDE A FULL REPORT OF CERTAIN AUDITS TO THE LEGISLATURE; TO REPEAL SECTION 77-1-17, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE PUBLIC SERVICE COMMISSION TO EMPLOY A COMPETENT RATE EXPERT AND AN ASSISTANT RATE EXPERT; TO REPEAL SECTION 77-1-19, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE PUBLIC SERVICE COMMISSION TO EMPLOY PERSONNEL TO IMPLEMENT THE MOTOR CARRIER REGULATORY LAW; TO REPEAL SECTION 77-1-21, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE DEPARTMENT OF TRANSPORTATION TO EMPLOY AN ENFORCEMENT OFFICER AND INSPECTORS TO IMPLEMENT THE MOTOR CARRIER REGULATORY LAW; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Doty To: Energy

SENATE BILL NO. 2386

AN ACT TO REENACT SECTIONS 77-1-1, 77-1-3, 77-1-5, 77-1-6, 77-1-11, 77-1-15, 77-1-25, 77-1-27, 77-1-29, 77-1-31, 77-1-33, 77-1-35, 77-1-37, 77-1-39, 77-1-41, 77-1-43, 77-1-47 AND 77-1-49, MISSISSIPPI CODE OF 1972, WHICH CREATE THE PUBLIC SERVICE COMMISSION AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND REENACTED SECTIONS 77-1-1, 77-1-11, 77-1-15 AND 77-1-27, MISSISSIPPI CODE OF 1972, TO REMOVE REFERENCES TO COMMON OR CONTRACT CARRIER BY MOTOR VEHICLE; TO AMEND SECTION 77-1-51, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THOSE SECTIONS; TO AMEND SECTION 77-1-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THIS SECTION WHICH AUTHORIZES THE COMMISSION AND THE PUBLIC UTILITIES STAFF TO HIRE ATTORNEYS AND CONSULTANTS FOR CERTAIN PROCEEDINGS; TO AMEND SECTION 77-3-93, MISSISSIPPI CODE OF 1972, TO TREAT RENEWABLE PURCHASES LIKE OTHER POWER PURCHASES; TO AMEND SECTION 77-3-42, MISSISSIPPI CODE OF 1972, TO CHANGE THE DATE BY WHICH THE COMMISSION MUST PROVIDE A FULL REPORT OF CERTAIN AUDITS TO THE LEGISLATURE; TO REPEAL SECTION 77-1-17, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE PUBLIC SERVICE COMMISSION TO EMPLOY A COMPETENT RATE EXPERT AND AN ASSISTANT RATE EXPERT; TO REPEAL SECTION 77-1-19, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE PUBLIC SERVICE COMMISSION TO EMPLOY PERSONNEL TO IMPLEMENT THE MOTOR CARRIER REGULATORY LAW; TO REPEAL SECTION 77-1-21, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE DEPARTMENT OF TRANSPORTATION TO EMPLOY AN ENFORCEMENT OFFICER AND INSPECTORS TO IMPLEMENT THE MOTOR CARRIER REGULATORY LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-1-1, Mississippi Code of 1972, is reenacted and amended as follows:

77-1-1. A public service commission, hereinafter referred to in this chapter as the commission, is hereby created, consisting of three (3) members, one (1) to be elected from each of the three (3) Supreme Court districts by the qualified electors of such district. Elections for such officers shall be held in the general election in November 1959, and every four (4) years thereafter, and the terms of office of the three (3) commissioners elected at the general election in November 1959 shall expire on December 31, 1963.

The commissioners shall each receive a yearly salary fixed by the Legislature, payable monthly.

The commissioners shall each possess the qualifications prescribed for the Secretary of State. The commissioners shall not operate, own any stock in, or be in the employment of any * * * telephone company, gas or electric utility company, or any other public utility that shall come under their jurisdiction or supervision.

SECTION 2. Section 77-1-3, Mississippi Code of 1972, is reenacted as follows:

77-1-3. The commission shall have a seal, having around the margin the words "Mississippi Public Service Commission," and in the center such device as it may select. The acts of the commission shall be authenticated by its seal.

SECTION 3. Section 77-1-5, Mississippi Code of 1972, is reenacted as follows:

77-1-5. The commission shall keep an office in the City of Jackson, which shall be kept open Monday through Friday of each week for eight (8) hours each day. The commission shall meet at its office on the first Tuesday of each month and at such other times and places as its duties may require. The commission may sit from day to day and from time to time, and any meeting may be pretermitted not exceeding two (2) in any year.

The members of the commission shall devote their entire time to the performance of their official duties on every business day, except on the legal holidays enumerated in Section 3-3-7, Mississippi Code of 1972. However, official acts of the commission done on legal holidays shall be valid.

The commission shall keep regular minutes of its proceedings, which shall be a public record, and all orders, findings and acts of the commission shall be entered on the minutes.

Two (2) members of the commission shall be a quorum.

SECTION 4. Section 77-1-6, Mississippi Code of 1972, is reenacted as follows:

77-1-6. There is hereby established in the State Treasury a special fund to be known as the "Public Service Commission Regulation Fund." Such fund shall be the sole fund of the commission for all monies collected and deposited to the credit of or appropriated to the commission. The fund shall be administered as provided in this title and shall be audited annually by the State Auditor.

From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the State Fiscal Officer.

From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 5. Section 77-1-11, Mississippi Code of 1972, is reenacted and amended as follows:

77-1-11. (1) It shall be unlawful for any public service commissioner, any candidate for public service commissioner, or any employee of the Public Service Commission or Public Utilities Staff to knowingly accept any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever, either directly or indirectly, from any person interested as owner, agent or representative, or from any person acting in any respect for such owner, agent or representative of any * * * telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission. Any person found guilty of violating the provisions of this subsection shall immediately forfeit his or her office or position and shall be fined not less than Five Thousand Dollars ($5,000.00), imprisoned in the State Penitentiary for not less than one (1) year, or both.

(2) It shall be unlawful for any person interested as owner, agent or representative, or any person acting in any respect for such owner, agent or representative of any * * * telephone company, gas or electric utility, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission to offer any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever to any public service commissioner, any candidate for public service commissioner or any employee of the Public Service Commission or Public Utilities Staff. Any party found guilty of violating the provisions of this subsection shall be fined not less than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not less than one (1) year, or both.

(3) For purposes of this section, the term "emolument" shall include salary, donations, contributions, loans, stock tips, vacations, trips, honorarium, directorships or consulting posts. Expenses associated with social occasions afforded public servants shall not be deemed a gift, emolument or other pecuniary benefit as defined in Section 25-4-103(k), Mississippi Code of 1972.

(4) For purposes of this section, a person who is a member of a water, gas, electric or other cooperative association regulated by the Public Service Commission shall not, by virtue of such membership, be deemed an owner, agent or representative of such association unless such person is acting in any respect for or as an owner, agent or representative of such association; nor

shall a person who owns less than one-half of one percent (1/2 of 1%) in stock, the value thereof not to exceed Ten Thousand Dollars ($10,000.00), of any public utility that is regulated by the Public Service Commission, or of any holding company of such public utility, by virtue of such ownership, be deemed an owner, agent or representative of such public utility unless such person is acting in any respect for or as an owner, agent or representative of such public utility.

SECTION 6. Section 77-1-15, Mississippi Code of 1972, is reenacted and amended as follows:

77-1-15. (1) There shall be an executive secretary of the commission, hereinafter referred to in this chapter as the secretary, to be appointed by the commission, by and with the advice and consent of the Senate, for the term of the commissioners. The secretary must have the same qualifications as the commissioners and shall be subject to the same disqualifications and to like penalties, except that he shall not be liable to impeachment. He shall receive a salary fixed by the Legislature. He shall take the oath of office and shall be removable at the pleasure of the commission, which may fill any vacancy until the Senate confirms a successor. The secretary shall make bond as provided for other state officers, in the sum of Ten Thousand Dollars ($10,000.00), conditioned upon the faithful performance of the duties of his office.

(2) The secretary shall collect all fees and penalties collected by or paid to the commission, and shall cover the same into the State Treasury * * *.

(3) The secretary of the commission shall be the custodian of all records, documents, and the seal of the commission. He shall issue all citations, subpoenas and other rightful orders and documents, and perform all other duties usually required of such officer, and as required by the commission.

(4) It shall be the duty and responsibility of the secretary to supervise and manage the offices and staff of the Public Service Commission and formulate written policies and procedures for the effective and efficient operation of the office and present these policies and procedures to the board for promulgation.

(5) From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

(6) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 7. Section 77-1-25, Mississippi Code of 1972, is reenacted as follows:

77-1-25. No member of the staff of the commission, or any other person, shall use uniforms, material, or equipment of the commission for private or political purposes. Members of the staff of the commission may be candidates for political office but must take a leave of absence to do so. Members of the staff of the commission may take part in political campaigns other than campaigns for Public Service Commission but may not solicit or receive campaign contributions from regulated utilities. Anyone violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law and shall be dismissed from the staff of the commission.

SECTION 8. Section 77-1-27, Mississippi Code of 1972, is reenacted and amended as follows:

77-1-27. All commission employees provided for in this chapter * * * shall be paid out of the appropriations made to defray the expenses of the commission, upon requisitions and warrants in the same manner provided by law for the disbursements of appropriations for the commission. An itemized account shall be kept of all receipts and expenditures and shall be reported to the Legislature by the commission.

SECTION 9. Section 77-1-29, Mississippi Code of 1972, is reenacted as follows:

77-1-29. On or before the twentieth day of each calendar month, the commission shall pay into the State Treasury to the account of the "Public Service Commission Regulation Fund" all

monies collected by it during the preceding calendar month, showing from whom collected, when collected and for what purposes collected. All disbursements made by the commission or from the regulation fund for any purposes, other than for salaries provided by law, shall be supported by a detailed and itemized statement approved by the commission for commission disbursements. The commission shall not expend funds from the "Public Service Commission Regulation Fund" to employ personnel whose services would duplicate services provided by any employee of the Public Utilities Staff.

From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 10. Section 77-1-31, Mississippi Code of 1972, is reenacted as follows:

77-1-31. The commission shall keep a docket of petitions and complaints, which shall be entered in regular order. The docket shall be called at each regular meeting of the board, and the cases thereon disposed of, or, if necessary, continued until the next meeting.

SECTION 11. Section 77-1-33, Mississippi Code of 1972, is reenacted as follows:

77-1-33. In any matter of inquiry pending before the commission or any member thereof, subpoenas for witnesses, and subpoenas duces tecum, may be issued by the secretary, under seal, or by any member without the seal, and shall be executed and returned by any sheriff, constable, or marshal, under the like penalties of law for failure to execute and return the process of the circuit court. If any person duly summoned to appear and testify before the commission, or before any one or more of the commissioners, shall fail or refuse to appear and testify, or to bring and produce, as commanded, any book, paper, or document, without a lawful excuse, or shall refuse to answer any proper question propounded to him by the commission or any of the commissioners, or if any person shall obstruct the commission, or one or more of the commissioners in the discharge of duty, or shall conduct himself in a rude, disrespectful, or disorderly manner before the commission deliberating in the discharge of duty, such witness or person shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than One Thousand Dollars ($1,000.00), or be imprisoned in the county jail for a period not exceeding six (6) months, or both.

SECTION 12. Section 77-1-35, Mississippi Code of 1972, is reenacted as follows:

77-1-35. The several members of the commission and the secretary may, in the discharge of their duties, administer oaths and take affidavits. The commission and each member thereof may examine witnesses under oath in all matters coming before them. If any person shall testify falsely, or make any false affidavit or oath before the commission, or before any of the commissioners, or before any officer, to any matter coming before the commission, he shall be guilty of perjury, and, upon conviction, shall be punished according to law.

SECTION 13. Section 77-1-37, Mississippi Code of 1972, is reenacted as follows:

77-1-37. Witnesses summoned to appear before the commission shall be entitled to the same per diem and mileage as witnesses attending the circuit court. Witnesses summoned by the commission on its behalf shall be paid as are other expenditures of the commission, upon the certificate of the commission showing the amount to which such witness may be entitled. Witnesses summoned for any carrier shall be paid by it.

SECTION 14. Section 77-1-39, Mississippi Code of 1972, is reenacted as follows:

77-1-39. In all cases where the testimony of witnesses is given orally before the commission any interested party or the commission shall have the right to have said testimony taken down and transcribed by a stenographer or court reporter, who is not an employee of the commission, to be agreed upon by the parties or

appointed by the commission. The stenographer or court reporter so employed shall be duly sworn and his or her certificate that the transcript of such evidence is correct together with the official certificate of any one (1) of the commissioners that he has read the same and that it is in his opinion correct shall entitle such transcript or a certified copy thereof to be received in evidence on any appeal or in any court in this state subject only to any objection that the same is not relevant or material. The stenographer or court reporter shall be paid in accordance with the provisions of Section 9-13-33. The commission shall have the right to require any party demanding an official stenographer to guarantee or prepay the costs thereof in all proper cases.

SECTION 15. Section 77-1-41, Mississippi Code of 1972, is reenacted as follows:

77-1-41. All findings of the commission and the determination of every matter by it shall be made in writing and placed upon its minutes. Proof thereof shall be made by a copy of the same duly certified by the secretary under the seal of the commission. Whenever any matter has been determined by the commission, in the course of any proceeding before it the fact of such determination, duly certified, shall be received in all courts and by every officer in civil cases as prima facie evidence that such determination was right and proper. The record of the proceedings of the commission shall be deemed a public record, and

shall at all reasonable times be subject to the inspection of the public.

SECTION 16. Section 77-1-43, Mississippi Code of 1972, is reenacted as follows:

77-1-43. The commission may apply to the circuit or chancery court, by proper proceeding, for aid in the enforcement of obedience to its process, and to compel compliance with Title 77, Mississippi Code of 1972, and its lawful rules, regulations, orders, decisions, and determinations. Said courts shall have jurisdiction to grant aid and relief in such cases, subject to the right of appeal to the Supreme Court by the party aggrieved. The commission itself may, by order after notice and hearing, institute such proceedings or, at the request of the commission by order after notice and hearing, the Attorney General, or district attorney in his district, shall institute such proceedings in the name of the commission.

SECTION 17. Section 77-1-47, Mississippi Code of 1972, is reenacted as follows:

77-1-47. Appeals from any final finding, order or judgment of the commission shall be taken and perfected by the filing of a bond in the sum of Five Hundred Dollars ($500.00) with two (2) sureties, or with a surety company qualified to do business in Mississippi as the surety, conditioned to pay the cost of such appeal. Said bond shall be approved by the chairman or secretary of the commission, or by the judge of the court to which such

appeal is taken in case the chairman or secretary of the commission refuses to approve a proper bond tendered to them within the time limited for taking appeals. The commission may grant a supersedeas bond on any appeal, in such penalty and with such surety thereon as it may deem sufficient, and may, during the pendency of any appeal, at any time, require the increase of any such supersedeas bond or additional securities thereon. The judge of the Circuit Court of Hinds County may on petition therefor by any party entitled to an appeal, presented to him within six (6) months of the date of the final finding, order, or judgment of the commission appealed from, award a writ of supersedeas to any such final finding, order, or judgment of the commission, upon the filing of a supersedeas bond in an amount to be fixed by said judge. All appeal bonds for the payment of costs, and all supersedeas bonds, shall be made payable to the state and may be enforced in the name of the state by motion or other legal proceedings or remedy in any circuit court of this state having jurisdiction of a motion or action on such bond, and the process and proceedings thereon shall be as provided by law upon bonds of like character required and taken by any court of this state. Such circuit court may render and enter like judgments upon such bonds as may, by law, be rendered and entered upon bonds of like character, and process of execution shall issue upon such judgments, and may be levied and executed as provided by law in other cases.

SECTION 18. Section 77-1-49, Mississippi Code of 1972, is reenacted as follows:

77-1-49. The commission shall make a report every year to the Legislature of all its acts and doings for the preceding fiscal year.

SECTION 19. Section 77-1-51, Mississippi Code of 1972, is amended as follows:

77-1-51. Sections 77-1-1 through 77-1-49, Mississippi Code of 1972, which create the Public Service Commission and prescribe its powers and duties, shall stand repealed as of December 31, * * * 2024.

SECTION 20. Section 77-1-55, Mississippi Code of 1972, is amended as follows:

77-1-55. (1) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, shall have the power to monitor, investigate, and seek relief in any appropriate federal forum from all existing or proposed interstate rates, charges, allocations and classifications, and all rules and practices in relation thereto promulgated and prescribed by or for any public utility as defined in Section 77-3-3(d)(i).

(2) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, may seek relief from any proposed or final decision, order, regulation, rule or law that has an impact on any existing or proposed interstate rate, charge, allocation or classification.

(3) For the purpose of this section, the Public Service Commission and the Executive Director of the Public Utilities Staff may each enter into professional services contracts with one or more attorneys or consultants from a competent, qualified and independent firm as may be required by the commission or the executive director. Costs associated with the professional service contracts shall not exceed One Million Five Hundred Thousand Dollars ($1,500,000.00) for each agency with respect to each rate regulated affected utility in any twelve-month period. The consultants or counsel shall submit periodically, but no less frequently than once each calendar quarter, to the executive director or the commission, as applicable, for approval of payment, itemized bills detailing the work performed. The executive director or the chairman of the commission, as applicable, shall requisition the applicable public utility to make the requisite payments to such consultants. The commission shall allow the utility to recover both the total costs the utility incurred under this section and the carrying charges for those costs through a rate rider established to recover the costs incurred and carrying charges incurred. Such rider shall include a true-up provision to ensure actual recovery of costs paid or otherwise incurred by the utility.

(4) This section shall stand repealed from and after July 1, * * * 2024.

SECTION 21. Section 77-3-93, Mississippi Code of 1972, is amended as follows:

77-3-93. (1) Whenever a utility purchases at wholesale from a non-utility generator or some non-associated source all or a portion of its electric capacity and/or energy requirements for a period in excess of thirty (30) days, such utility shall be entitled to include as expense items in its revenue requirements, for the purpose of the calculation of its rates for retail service, the cost of such capacity and energy so purchased, and in addition to such cost, an amount representing a return on the capacity purchased over the period of the test year which is being used to calculate the revenue requirements. This amount shall be calculated using the return allowed by the commission as provided in Section 77-3-95. Notwithstanding the above or any provision of law to the contrary, for any renewable power purchase entered into after July 1, 2020, including, but not limited to, solar, wind, biomass or storage, a utility shall be entitled to incorporate renewable purchased costs in its rate base.

(2) Nothing in Sections 77-3-91 through 77-3-95 shall be interpreted to allow a return on the energy purchased by a utility pursuant to its obligation to purchase energy under the federal Public Utilities Regulatory Policy Act of 1978.

SECTION 22. Section 77-3-42, Mississippi Code of 1972, is amended as follows:

77-3-42. (1) (a) No public utility, the rates of which are subject to regulation under the provisions of this chapter, shall increase its rate or rate schedule in addition to its base rate as a result of what is commonly referred to as "fuel adjustment clauses" increase or "fuel adjustment riders" if the application of such clause or rider shall result in ultimate cost recovery exceeding the actual cost of fuel burned or consumed in its generating facilities and the cost of purchased energy.

(b) For the purpose of such fuel adjustment clause or rider, the cost of fuel as used herein shall include only the actual cost of the fuel and its transportation and may include such other cost items which are as of the effective date of this section allowed by the federal energy regulatory commission for inclusion in wholesale fuel adjustment clauses under its jurisdiction. In addition thereto fuel cost may include direct costs associated with burning the fuel at the generating plant, such as fuel-handling expenses and the cost of fuel sampling and analysis.

(2) (a) The commission is hereby directed to cause a continuous monitoring by the public utilities staff and a complete audit, as necessary but not less than annually, of all fuel purchases for which fuel adjustment clauses or riders have been placed in effect prior to and after the effective date of this section, which shall totally verify fuel costs as might be consumed in generating plants and all purchased energy of such

electric utilities in Mississippi with said audit being based upon generally accepted auditing standards which would accurately provide detailed information as to the actual monthly utility fuel costs. Such audit shall be completely independent of any audit performed on behalf of such utility.

(b) The commission is hereby directed to promulgate rules and regulations, not inconsistent with the laws, (i) to define allowable costs for inclusion in fuel adjustments, (ii) to establish guidelines for defining what elements constitute a just and reasonable fuel adjustment clause or rider, (iii) to establish guidelines for defining what elements constitute efficient and economical procurement and use of energy and fuel, and (iv) to establish general guidelines for making the required review of fuel adjustment clauses or riders as required by this section. Such rules and regulations shall be spread upon the minutes of the commission.

(c) Such audits shall include (i) a determination if fuel and associated costs are properly identified and recorded in the appropriate uniform system of accounts, (ii) a determination if purchased energy and associated costs are properly identified, (iii) an assessment of a utility's practices for economical purchase and use of fuel and electric energy, and (iv) an assessment of the relevant contract terms and conditions and any variations from contract terms.

(3) The audits required by this section shall extend to the fuel acquisition activities of any corporation which is owned in whole or in part by any such public utility under the jurisdiction of the commission or owned in whole or in part by a public utility holding company which is the parent company of any public utility under the jurisdiction of the commission. Public utilities under the jurisdiction of this commission, the rates of which are subject to regulation under the provisions of this chapter, shall not purchase fuel and/or energy from a company or corporation which is owned in whole or in part by that public utility or by the parent company of that public utility unless the selling company or corporation assents to audits as provided for under this section.

(4) Upon receipt of each audit report, the certified public accountant of the public utilities staff shall review the report and furnish the commissioners with a written summary of, and his comments on, the report. The commission shall meet within one (1) week after receipt of the accountant's summary, and shall spread upon the minutes of the commission that it has reviewed said summary and further shall describe any action which it takes regarding the audit report or the fact that no action was required. Any costs included in a fuel adjustment clause or rider by a public utility under the jurisdiction of the commission found in violation of this section shall, by order of the commission, be refunded to the appropriate person or persons. In lieu of

payment, the utility may credit the service account with the amount due under this subsection if the consumer entitled to the refund is, at that time, a consumer of the utility.

(5) Periodically, and not less frequently than annually, the commission shall review the audit reports, the reports of the certified public accountant of the public utilities staff, any reports of the public utilities staff relating to its monitoring of fuel purchases, and all other relevant information relating to fuel purchases, fuel adjustment clauses or riders, and purchased energy for the purpose of determining (a) whether or not the utility is properly and correctly employing the use of the fuel adjustment clause or rider applicable to its operations and billing procedures, (b) whether or not the utility has engaged in practices in the acquisition of fuel or purchased energy which are efficient and economical, and (c) whether or not there is reason to question the practices, contracts, operations or procedures of the utility in the purchase or acquisition of fuel or purchased energy relative to efficiency, economy and the public interest.

If the commission, after following the procedures described above, has reasonable cause to believe that inefficient or uneconomical procurement or use of fuel or purchased energy has resulted in unreasonable or unjust charges or costs to the consumers, then the commission shall initiate a procedure for hearing as provided for in Section 77-3-47 for the purpose of determining whether or not any of the costs or charges included in

the fuel adjustment charges to the consumers were unreasonable or unjust. If the commission upon hearing shall find that any charges for the purchase or procurement of fuel or purchased energy were unreasonable or unjust, then the commission shall order that such costs or charges be refunded to the appropriate person or persons together with interest at the same rate prescribed in Section 77-3-39, Section 77-3-69 and Section 77-3-71. In lieu of payment, the utility may credit the service account with the amount due under this subsection if the consumer entitled to the refund is, at that time, a consumer of the utility.

(6) (a) The commission shall maintain at all times complete and current data relating to sales and purchases of electric capacity of all utilities, including copies of contracts and agreements for the purchase of electric capacity, amendments to such contracts, records of purchases and sales of electric capacity, and all other relevant information and data deemed appropriate by the commission for carrying out the provisions of this section.

(b) The commission is hereby directed to review, not less frequently than annually, the information and data described above. If, from said review the commission has reasonable cause to believe that inefficient or uneconomical sales or purchases of electric capacity by a utility, the rates of which are subject to regulation by the commission, have resulted in unreasonable or

unjust charges or costs to the consumers, then the commission shall initiate a procedure for hearing as provided for in Section 77-3-47 for the purpose of determining whether or not any of the costs or charges for sales or purchases of electric capacity included in the charges to consumers were unreasonable or unjust. If the commission, upon hearing, shall find that any such charges for the sale or purchase of electric capacity were unreasonable or unjust, then the commission shall order that such costs or charges be refunded to the appropriate person or persons, together with interest thereon at the same rate prescribed in Section 77-3-39, Section 77-3-69 and Section 77-3-71. In lieu of payment, the utility may credit the service account with the amount due under this subsection if the consumer entitled to the refund is, at that time, a consumer of the utility.

(7) The commission shall provide a full and complete report of said audits to the Legislature on or before * * * March 15 of each year. The report shall include certification by the commission that the information is true and correct as well as other clarifications of the audit information and any recommendations for correcting imperfections in statutes relative to existing fuel or purchased gas adjustments.

(8) Nothing in this section shall prohibit the commission from entering an order in a declared emergency allowing public utilities under such emergency circumstances to adjust their rates for a period not to exceed sixty (60) days upon declaration of

said emergency. There shall be a full hearing and a complete and total accounting as to total costs of said commission order to public utilities customers, with detailed accounting of such emergency fuel adjustment clause order being made available to the public.

(9) This section shall not apply to a municipality, including a joint agency organized pursuant to * * * Section 77-5-701 et seq., as amended.

SECTION 23. Section 77-1-17, Mississippi Code of 1972, which authorizes the Public Service Commission to employ a competent rate expert and an assistant rate expert, is hereby repealed.

SECTION 24. Section 77-1-19, Mississippi Code of 1972, which authorizes the Public Service Commission to employ personnel to implement the Motor Carrier Regulatory Law, is hereby repealed.

SECTION 25. Section 77-1-21, Mississippi Code of 1972, which authorizes the Department of Transportation to employ an enforcement officer and inspectors to implement the Motor Carrier Regulatory Law, is hereby repealed.

SECTION 26. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2427

Description: MS S.A.F.E. Mortgage Act; remove repealer, clarify record keeping requirements, clarify estimate of costs provided to borrower.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: July 1, 2020

History of Actions:

1	02/14	(S) Referred To Business and Financial Institutions
2	02/27	(S) Title Suff Do Pass
3	03/05	(S) Passed {Vote}
4	03/06	(S) Transmitted To House
5	03/25	(H) Referred To Banking and Financial Services
6	05/27	(H) Title Suff Do Pass
7	06/02	(H) Passed {Vote}
8	06/03	(H) Returned For Enrolling
9	06/04	(S) Enrolled Bill Signed
10	06/04	(H) Enrolled Bill Signed
11	06/11	Approved by Governor

Code Section: R 081-0018-0001, R 081-0018-0003, R 081-0018-0005, R 081-0018-0007, R 081-0018-0008, R 081-0018-0009, R 081-0018-0011, R 081-0018-0013, R 081-0018-0014, R 081-0018-0015, R 081-0018-0017, R 081-0018-0019, RA 081-0018-0021, R 081-0018-0023, R 081-0018-0025, R 081-0018-0027, R 081-0018-0028, R 081-0018-0029, R 081-0018-0031, RA 081-0018-0033, R 081-0018-0035, R 081-0018-0036, R 081-0018-0037, R 081-0018-0039, R 081-0018-0040, R 081-0018-0041, R 081-0018-0043, R 081-0018-0045, R 081-0018-0047, R 081-0018-0049, R 081-0018-0053, R 081-0018-0055, R 081-0018-0061, R 081-0018-0063, RP 081-0018-0051

----- Additional Information -----

Senate Committee: Business and Financial Institutions
House Committee: Banking and Financial Services

Principal Author: Parks

Title: AN ACT TO REENACT SECTIONS 81-18-1 THROUGH 81-18-63, MISSISSIPPI CODE OF 1972, KNOWN AS THE MISSISSIPPI S.A.F.E. MORTGAGE ACT; TO AMEND REENACTED SECTION 81-18-21, MISSISSIPPI CODE OF 1972, TO EXTEND AND CLARIFY THE TIME PERIOD DURING WHICH MORTGAGE BROKERS ARE REQUIRED TO MAINTAIN THEIR BOOKS, ACCOUNTS AND RECORDS; TO AMEND REENACTED SECTION 81-18-33, MISSISSIPPI CODE OF 1972, TO CLARIFY THE TYPE OF ESTIMATE OF COSTS PROVIDED TO THE BORROWER; TO REPEAL SECTION 81-18-51, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE DATE OF REPEAL ON THE PROVISIONS OF LAW KNOWN AS THE MISSISSIPPI S.A.F.E. MORTGAGE ACT; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI SB 2427

MISSISSIPPI LEGISLATURE — REGULAR SESSION 2020

By: Senator(s) Parks — To: Business and Financial Institutions

SENATE BILL NO. 2427

AN ACT TO REENACT SECTIONS 81-18-1 THROUGH 81-18-63, MISSISSIPPI CODE OF 1972, KNOWN AS THE MISSISSIPPI S.A.F.E. MORTGAGE ACT; TO AMEND REENACTED SECTION 81-18-21, MISSISSIPPI CODE OF 1972, TO EXTEND AND CLARIFY THE TIME PERIOD DURING WHICH MORTGAGE BROKERS ARE REQUIRED TO MAINTAIN THEIR BOOKS, ACCOUNTS AND RECORDS; TO AMEND REENACTED SECTION 81-18-33, MISSISSIPPI CODE OF 1972, TO CLARIFY THE TYPE OF ESTIMATE OF COSTS PROVIDED TO THE BORROWER; TO REPEAL SECTION 81-18-51, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE DATE OF REPEAL ON THE PROVISIONS OF LAW KNOWN AS THE MISSISSIPPI S.A.F.E. MORTGAGE ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 81-18-1, Mississippi Code of 1972, is reenacted as follows:

81-18-1. This chapter shall be known and cited as the "Mississippi S.A.F.E. Mortgage Act."

SECTION 2. Section 81-18-3, Mississippi Code of 1972, is reenacted as follows:

81-18-3. For purposes of this chapter, the following terms shall have the following meanings:

(a) "Application" means the submission of a borrower's financial information in anticipation of a credit decision,

whether written or computer-generated. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a federally related mortgage loan. The subsequent addition of an identified property to the submission converts the submission to an application for a federally related mortgage loan.

(b) "Borrower" means a person who submits an application for a residential mortgage loan.

(c) "Branch" means a location of a company in or outside of the state that conducts business as a mortgage broker or mortgage lender. A location shall be considered a branch regarding mortgage broker or mortgage lender activities in any of the following:

(i) If the location is used on any type of advertisement;

(ii) If any type of record, loan file or application of the company is located at the location, with the exception of unstaffed storage facilities; or

(iii) If the activities of a mortgage loan originator occur at the location.

(d) "Commissioner" means the Commissioner of the Mississippi Department of Banking and Consumer Finance.

(e) "Commitment" means a statement by a lender required to be licensed under this chapter that sets forth the terms and

conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower.

(f) "Company" means a licensed mortgage broker or mortgage lender under this chapter.

(g) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise, and shall include "controlling," "controlled by," and "under common control with."

(h) "Department" means the Department of Banking and Consumer Finance of the State of Mississippi.

(i) "Depository institution" has the same meaning as in Section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(j) "Executive officer" means the chief executive officer, the president, the principal financial officer, the principal operating officer, each vice president with responsibility involving policy-making functions for a significant aspect of a person's business, the secretary, the treasurer, or any other person performing similar managerial or supervisory functions with respect to any organization whether incorporated or unincorporated.

(k) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the

National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(l) "Housing finance agency" means any authority that is chartered by a state to help meet the affordable housing needs of the residents of the state, is supervised directly or indirectly by the state government, is subject to audit and review by the state in which it operates, and whose activities make it eligible to be a member of the National Council of State Housing Agencies.

(m) "Immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild. This term includes stepparents, stepchildren, stepsiblings and adoptive relationships.

(n) "Individual" means a "natural person."

(o) "License" means a license to act as a mortgage broker or mortgage lender issued by the department under this chapter.

(p) "Licensee" means a person who is required to be licensed as a mortgage broker or mortgage lender under this chapter.

(q) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter.

For the purposes of this paragraph (q), the term "clerical or support duties" may include, after the receipt of an application:

(i) The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

An individual engaging solely in loan processor or underwriter activities, shall not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(r) "Lock-in agreement" means a written agreement stating the terms of the lock-in fee.

(s) "Lock-in fee" means a fee collected by a licensee to be paid to a lender to guarantee an interest rate or a certain number of points on a mortgage loan from the lender.

(t) "Make a mortgage loan" means to advance funds, offer to advance funds or make a commitment to advance funds to a borrower.

(u) "Misrepresent" means to make a false statement of a substantive fact or to engage in, with intent to deceive or mislead, any conduct that leads to a false belief that is material to the transaction.

(v) "Mortgage broker" means any person who directly or indirectly or by electronic activity solicits, places or negotiates residential mortgage loans for others, or offers to solicit, place or negotiate residential mortgage loans for others that does not close residential mortgage loans in the company name, does not use its own funds, or who closes residential mortgage loans in the name of the company, and sells, assigns or transfers the loan to others within forty-eight (48) hours of the closing.

(w) "Mortgage lender" means any person who directly or indirectly or by electronic activity originates, makes, funds or purchases or offers to originate, make, or fund or purchase a residential mortgage loan or who services residential mortgage loans.

(x) "Mortgage-lending process" means the process through which a person seeks or obtains a mortgage loan, including, but not limited to, solicitation, application, origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan. Documents involved in the mortgage-lending process include, but are not limited to, uniform residential loan applications or other

loan applications, appraisal reports, HUD-1 Settlement Statements, supporting personal documentation for loan applications such as W-2 forms, verifications of income and employment, bank statements, tax returns, payroll stubs and any required disclosures.

(y) "Mortgage loan originator" means an individual who:

(i) Takes a residential mortgage loan application; and

(ii) Offers or negotiates terms of a residential mortgage loan for compensation or gain. The term "mortgage loan originator" does not include:

1. An individual engaged solely as a loan processor or underwriter except as otherwise provided in this chapter;

2. A person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with Mississippi law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; and

3. A person or entity solely involved in extensions of credit relating to time-share plans, as that term is defined in Title 11 USCS, Section 101(53D).

(z) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the

Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

(aa) "Natural person" means a human being, as distinguished from an artificial person created by law.

(bb) "Nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage.

(cc) "Offering or negotiating a residential mortgage loan" means:

(i) Presenting particular mortgage loan terms for consideration by a borrower; or

(ii) Communicating directly or indirectly with a borrower for purposes of reaching a mutual understanding about prospective loan terms.

"Offering or negotiating" does not include the following: the mere sharing of general information about a financing source; discussing hypothetical financing options, i.e., options not related to specific financing source; giving the homebuyer a list of available financing sources; discussing a buyer's ability to afford a home; presenting or discussing generic facts or generic rate sheets; closing personal property transactions.

(dd) "Person" means a natural person, sole proprietorship, corporation, company, limited liability company, partnership or association.

(ee) "Principal" means a person who, directly or indirectly, owns or controls an ownership interest of ten percent (10%) or more in a corporation or any other form of business organization, regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, limited liability companies, partnerships, trusts, joint-stock companies, other entities or devises, or any combination thereof.

(ff) "Qualifying individual" means an owner or employee of a mortgage broker or mortgage lender who submits documentation of two (2) years' experience directly related to mortgage activities and who shall be primarily responsible for the operations of the licensed mortgage broker or mortgage lender. This individual will also be designated as the qualifying individual in the Nationwide Mortgage Licensing System and Registry.

(gg) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property;

(ii) Bringing together parties interested in the sale, purchase, lease, rental or exchange of real property;

(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease,

rental or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) Offering to engage in any activity, or act in any capacity, described in subparagraph (i), (ii), (iii) or (iv) of this paragraph (gg).

(hh) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(ii) "Registered mortgage loan originator" means any individual who:

(i) Meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration; and

(ii) Is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(jj) "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling (as defined in Section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(kk) "Residential real estate" means any real property located in Mississippi upon which is constructed or intended to be constructed a dwelling.

(ll) "Service a mortgage loan" means the collection or remittance for another, the right to collect or remit for another, or the collection of the company's own loan portfolio, whether or not the company originated, funded or purchased the loan in the secondary market, of payments of principal and interest, trust items such as insurance and taxes, and any other payments pursuant to a mortgage loan.

(mm) "Taking an application for a residential mortgage loan" means a receipt of an application for the purpose of deciding whether or not to extend the requested offer of a loan to the borrower whether the application is received directly or indirectly from the borrower. However, an individual whose only role with respect to the application is physically handling a completed application form or transmitting a completed form to a

lender on behalf of a prospective borrower does not take an application.

(nn) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

SECTION 3. Section 81-18-5, Mississippi Code of 1972, is reenacted as follows:

81-18-5. The following are exempt from the provisions of this chapter:

(a) Registered mortgage loan originators, when acting for an entity described in Section 81-18-3(ii).

(b) Any person who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.

(c) Any person, estate or trust who owner finances in one (1) calendar year no more than ten (10) residential mortgage loans or no more than twenty percent (20%) of his total residential units sold, whichever is greater. A violation of this paragraph (c) shall not affect the title of the purchaser/borrower or the obligation of the purchaser/borrower under the terms of the mortgage loan.

(d) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other

mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator.

(e) A depository institution, or a subsidiary that is owned and controlled by a depository institution, or an institution regulated by the Farm Credit Administration.

(f) Any mortgage lender who holds a valid license under the provisions of the Small Loan Regulatory Law, Section 75-67-101 et seq., and the Small Loan Privilege Tax Law, Section 75-67-201 et seq., and whose mortgage lending activities are limited solely to the servicing of mortgage loans that were in such mortgage lender's own loan portfolio as of December 31, 2009. For the purposes of the exemption in this paragraph (f), "servicing of mortgage loans" shall mean and include the collection of payments of principal and interest, insurance premiums, taxes and other payments required under such mortgage loans, and shall also include activities related to the collection of such payments such as collection calls whether by phone, mail, electronic means or in person, and enforcement remedies permitted by law or at equity. In no event shall the term "servicing of mortgage loans" include the renewal or reworking of the mortgage. If a mortgage loan is renewed or reworked, the lender shall be required to obtain a mortgage license in order to continue any mortgage activity described in this chapter.

(g) Any bona fide nonprofit organization and its employees who demonstrate to the satisfaction of the commissioner

through the periodic examination of the books and activities of the organization as required in Section 81-18-21, Mississippi Code of 1972, that they continually meet the following requirements, at a minimum:

(i) Maintains tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986;

(ii) Promotes affordable housing or provides homeownership education, or similar services;

(iii) Conducts its activities in a manner that serves public or charitable purposes;

(iv) Receives funding and revenue and charges fees in a manner that does not incentivize the organization or its employees to act other than in the best interests of its clients;

(v) Compensates employees in a manner that does not incentivize employees to act other than in the best interests of its client; and

(vi) Provides to or identifies for the borrower residential mortgage loans with terms that are favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.

(h) Any person who is an employee of a government agency or housing finance agency who acts as a mortgage loan originator in accordance with his duties as an employee of such agency.

(i) Any person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a state-licensed loan originator or a registered loan originator. For purposes of this paragraph (i), the term "clerical or support duties" may include:

(i) The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

SECTION 4. Section 81-18-7, Mississippi Code of 1972, is reenacted as follows:

81-18-7. (1) No person shall transact business in this state, directly or indirectly, as a mortgage broker or mortgage lender unless he or she is licensed by the department or is a person exempted from the licensing requirements under Section 81-18-5.

(2) A violation of this section does not affect the obligation of the borrower under the terms of the mortgage loan. The department shall publish and provide for distribution of information regarding approved or revoked licenses.

(3) Every person who directly or indirectly controls a person who violates this section, including a general partner, executive officer, joint venturer, contractor, or director of the person, violates this section to the same extent as the person, unless the person whose violation arises under this subsection shows by a preponderance of evidence the burden of proof that he or she did not know and, in the exercise of reasonable care, could not have known of the existence of the facts by reason of which the original violation is alleged to exist.

(4) An individual, unless specifically exempted from this chapter under Section 81-18-5, shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without first obtaining and maintaining annually a license under this chapter. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(5) In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective date of subsection (4) of this section shall be as follows:

(a) For all individuals other than individuals described in paragraph (b), the effective date shall be July 31, 2010, or such later date approved by the Secretary of the United

States Department of Housing and Urban Development, under the authority granted under Public Law 110-289, Section 1508(a).

(b) For all individuals licensed as mortgage loan originators as of July 31, 2009, the effective date shall be January 1, 2011, or such later date approved by the Secretary of the United States Department of Housing and Urban Development, under the authority granted under Public Law 110-289, Section 1508(a).

(6) For the purposes of implementing an orderly and efficient licensing process, the commissioner may establish licensing rules or regulations and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the commissioner may establish expedited review and licensing procedures.

SECTION 5. Section 81-18-8, Mississippi Code of 1972, is reenacted as follows:

81-18-8. Municipalities and counties in this state may enact ordinances that are in compliance with, but not more restrictive than, the provisions of this chapter. Any order, ordinance or regulation existing on July 1, 2002, or enacted on or after July 1, 2002, that conflicts with this provision shall be null and void.

SECTION 6. Section 81-18-9, Mississippi Code of 1972, is reenacted as follows:

81-18-9. (1) Applicants for a license shall apply in a form as prescribed by the commissioner. Each such form shall contain content as set forth by rule, regulation, instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter.

(2) The mortgage broker and mortgage lender application through the Nationwide Mortgage Licensing System and Registry shall include, but is not limited to, the following:

(a) The legal name, residence and business address of the applicant and, if applicable, the legal name, residence and business address of every principal and executive officer, together with the résumé of the applicant and of every principal and executive officer of the applicant. In addition, an independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act and information related to any administrative, civil or criminal findings by any governmental jurisdiction of every principal and executive officer.

(b) The legal name of the mortgage broker or mortgage lender in addition to the name under which the applicant will conduct business in the state, neither of which may be already assigned to a licensed mortgage broker or mortgage lender.

(c) The complete address of the applicant's principal place of business, branch office(s) and any other locations at

which the applicant will engage in any business activity covered by this chapter. All locations shall be within the United States of America or a territory of the United States of America, including Puerto Rico and the U.S. Virgin Islands.

(d) A copy of the certificate of incorporation, if a Mississippi corporation.

(e) Documentation satisfactory to the department as to a certificate of existence of authority to transact business lawfully in Mississippi from the Mississippi Secretary of State's office, if a limited liability company, partnership, trust or any other group of persons, however organized. This paragraph does not pertain to applicants organized as an individual or as a sole proprietorship.

(f) If a foreign entity, a copy of a certificate of authority to conduct business in Mississippi and the address of the principal place of business of the foreign entity.

(g) Documentation of a minimum of two (2) years' experience directly related to mortgage activities by a person named as the qualifying individual of the company. The qualifying individual shall be primarily responsible for the operations of the licensed mortgage broker or mortgage lender. Only one (1) qualifying individual shall be named for Mississippi and this person shall be the qualifying individual for only one (1) licensee. Evidence of experience shall include, where applicable:

(i) Copies of business licenses issued by governmental agencies.

(ii) Employment history of the person filing the application for at least two (2) years before the date of the filing of an application, including, but not limited to, job descriptions, length of employment, names, addresses and phone numbers for past employers.

(iii) Any other data and pertinent information as the department may require with respect to the applicant, its directors, principals, trustees, officers, members, contractors or agents. A résumé alone shall not be sufficient proof of employment history.

(3) The mortgage broker and mortgage lender applications shall be filed on the Nationwide Mortgage Licensing System and Registry together with the following:

(a) The license fee specified in Section 81-18-15;

(b) An original or certified copy of a surety bond in favor of the State of Mississippi for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the company's breach of contract or of any obligation arising therefrom or any violation of law;

(c) A set of fingerprints from any local law enforcement agency from the following applicants:

(i) All persons operating as a sole proprietorship that plan to conduct a mortgage-brokering or lending business in the State of Mississippi;

(ii) Partners in a partnership or principal owners of a limited liability company that own at least ten percent (10%) of the voting shares of the company;

(iii) Any shareholders owning ten percent (10%) or more of the outstanding shares of the corporation;

(iv) All executive officers of the applicant;

(v) All loan originators; and

(vi) The named qualifying individual of the company as required in Section 81-18-9(2)(g). The applicant shall name only one (1) individual as the qualifying individual for the State of Mississippi; and

(d) At least one (1) employee shall be licensed as a loan originator at a licensed location.

(4) In connection with an application for licensing as a mortgage broker or lender under this chapter, the required stockholders, owners, directors and executive officers of the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the individual's identity, including:

(a) Fingerprints from any local law enforcement agency for submission to the Federal Bureau of Investigation and any governmental entity authorized to receive that information for a

state, national and/or international criminal history background check; and

(b) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(i) An independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

(ii) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(5) Upon receipt of an application for licensure, the department or designated third party shall conduct an investigation as it deems necessary to determine that the applicant and its officers, directors and principals are of good character and ethical reputation; that the applicant demonstrates reasonable financial responsibility; and that the applicant has reasonable policies and procedures to receive and process customer grievances and inquiries promptly and fairly.

(6) The commissioner shall not license an applicant unless he is satisfied that the applicant will operate its mortgage activities in compliance with the laws, rules and regulations of this state and the United States.

(7) If an applicant satisfies the requirements of this chapter for a mortgage broker or mortgage lender license, the commissioner shall issue the license unless the commissioner finds any of the following:

(a) The applicant has had a mortgage lender, mortgage broker or mortgage servicer license revoked in any governmental jurisdiction, except that a subsequent formal vacation of the revocation shall not be deemed a revocation; or

(b) The applicant or its controlling persons has been convicted of, or pled guilty or nolo contendere to, (i) a felony in a domestic, foreign or military court during the seven-year period preceding the date of application for licensing; or (ii) at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. However, any pardon or expungement of a conviction shall not be a conviction for purposes of this subsection.

(8) Applicants for a mortgage loan originator license shall apply in a form as prescribed by the commissioner and shall be filed on the Nationwide Mortgage Licensing System and Registry. Each such form shall contain content as set forth by rules, regulations, instructions or procedures of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter. The initial license of a mortgage loan originator shall be accompanied by a fee of Two Hundred Dollars ($200.00), to be paid to the Nationwide

Mortgage Licensing System and Registry, and any additional fees as required by the Nationwide Mortgage Licensing System and Registry. The commissioner shall not issue a mortgage loan originator license unless the commissioner makes at a minimum the following findings:

(a) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a later formal vacation of that revocation shall not be deemed a revocation.

(b) The applicant has not been convicted of, or pled guilty or nolo contendere to, (i) a felony in a domestic, foreign or military court during the seven-year period preceding the date of application for licensing; or (ii) at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering. However, any pardon or expungement of a conviction shall not be a conviction for purposes of this subsection.

(c) The applicant has demonstrated financial responsibility, character and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly and efficiently within the purposes of this chapter.

(d) The applicant has completed the prelicensing education requirement described in Section 81-18-14(1).

(e) The applicant has passed a written test that meets the test requirement described in Section 81-18-14(7).

(f) The applicant has met the surety bond requirement as provided in Section 81-18-11.

(g) This individual must work for a Mississippi licensed company and work from the location licensed with the department. The licensed location that he or she is assigned to must be within one hundred twenty-five (125) miles of his or her residency. If the licensed loan originator resides and works in Mississippi, then he or she may work from any licensed location of the licensed company within the State of Mississippi. However, an owner of a minimum of ten percent (10%) of a licensed company or the named qualifying individual on file with the department, who is a licensed loan originator with the department, may work from any licensed location of the licensed company within the State of Mississippi in the capacity of a loan originator as described in this chapter.

(9) In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(10) In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(a) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive that information for a state, national and/or international criminal history background check; and

(b) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(i) An independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

(ii) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(11) For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (10)(a) and (b)(ii) of this section, the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

(12) For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subsection (10)(b)(i) and (ii) of this section, the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

SECTION 7. Section 81-18-11, Mississippi Code of 1972, is reenacted as follows:

81-18-11. (1) Each mortgage loan originator shall be covered by a surety bond in accordance with this section. If the mortgage loan originator is an employee or exclusive agent of a person subject to this chapter, the surety bond of the person who is subject to this chapter may be used in lieu of the mortgage loan originator's surety bond requirement.

(2) The surety bond shall be in a form as prescribed by the commissioner, and shall provide coverage for each mortgage loan originator in an amount as prescribed in subsection (3) of this section.

(3) The penal sum of the surety bond shall be maintained in an amount as determined by the commissioner by rule or regulation and shall be based upon loan activity during the previous year, but shall not exceed Twenty-five Thousand Dollars ($25,000.00) for a mortgage broker or One Hundred Fifty Thousand Dollars ($150,000.00) for a mortgage lender. For an initial applicant,

the bond amount shall be set at Twenty-five Thousand Dollars ($25,000.00) for a mortgage broker and One Hundred Fifty Thousand Dollars ($150,000.00) for a mortgage lender.

(4) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon recovery upon any action on the bond, the licensee shall file a new bond.

(5) All surety bonds shall be in favor, first, of the State of Mississippi for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the company's breach of contract or of any obligation arising from the contract or any violation of law, and, second, for the payment of any civil penalties, criminal fines, or costs of investigation and/or prosecution incurred by the State of Mississippi, including local law enforcement agencies.

(6) The commissioner may promulgate rules or regulations with respect to the requirements for the surety bonds as are necessary to accomplish the purposes of this chapter.

SECTION 8. Section 81-18-13, Mississippi Code of 1972, is reenacted as follows:

81-18-13. (1) In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and

process transaction fees or other fees related to licensees or other persons subject to this chapter.

(2) Within thirty (30) days after receipt of a completed application, final verification from the Department of Public Safety and/or FBI, and payment of licensing fees prescribed by this chapter, the department shall either grant or deny the request for license. However, if the Federal Financial Institutions Examination Council (FFIEC) prescribes a lesser period of time within which the department shall either grant or deny the request for license, then that time limitation shall supersede this subsection.

(3) A person shall not be indemnified for any act covered by this chapter or for any fine or penalty incurred under this chapter as a result of any violation of this chapter or regulations adopted under this chapter, due to the legal form, corporate structure, or choice of organization of the person, including, but not limited to, a limited liability corporation.

SECTION 9. Section 81-18-14, Mississippi Code of 1972, is reenacted as follows:

81-18-14. (1) In order to meet the prelicensing education requirement referred to in Section 81-18-9(4)(d), a person shall complete at least twenty (20) hours of education approved in accordance with subsection (2) of this section, which shall include at least:

(a) Three (3) hours of federal law and regulations;

(b) Three (3) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues;

(c) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace; and

(d) Four (4) hours of education related to the Mississippi S.A.F.E. Mortgage Act.

(2) For the purposes of subsection (1) of this section, prelicensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a prelicensing education course shall include review and approval of the course provider.

(3) Nothing in this section shall preclude any prelicensing education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such employer or entity.

(4) Prelicensing education may be offered either in a classroom, online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(5) The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry in subsection (1) of this section for any state shall be accepted as credit

towards completion of prelicensing education requirements in Mississippi.

(6) A person previously licensed under this chapter who applies to be licensed again on or after July 1, 2009, must prove that they have completed all of the continuing education requirements for the year in which the license was last held.

(7) In order to meet the written test requirement for mortgage loan originators referred to in Section 81-18-9(4)(e), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards.

(8) A written test shall not be treated as a qualified written test for purposes of subsection (7) of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(a) Ethics;

(b) Federal law and regulation pertaining to mortgage origination;

(c) State law and regulation pertaining to mortgage origination; and

(d) Federal and state law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace and fair lending issues.

(9) Nothing in this section shall prohibit a test provider approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or the location of any subsidiary or affiliate of the employer of the applicant, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(10) (a) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five percent (75%) correct answers to questions.

(b) An individual may retake a test three (3) consecutive times with each consecutive taking occurring at least thirty (30) days after the preceding test.

(c) After failing three (3) consecutive tests, an individual shall wait at least six (6) months before taking the test again.

(d) A licensed mortgage loan originator who fails to maintain a valid license for a period of five (5) years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator.

SECTION 10. Section 81-18-15, Mississippi Code of 1972, is reenacted as follows:

81-18-15. (1) Each mortgage broker and mortgage lender license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license to operate as a mortgage broker or mortgage lender, the applicant shall pay through the Nationwide Mortgage Licensing System and Registry to the commissioner a license fee of One Thousand Five Hundred Dollars ($1,500.00); however, if the initial mortgage broker or mortgage lender license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. Upon the expiration of the initial license, the licensee shall pay an annual renewal fee of One Thousand Dollars ($1,000.00) on or before December 31 of each year. If the annual renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. If the renewal fee is not paid before the expiration date of the license, then the licensee shall be liable for the initial license fee, which is One Thousand Five Hundred Dollars ($1,500.00), plus a penalty in an amount not to exceed Twenty-five Dollars ($25.00) for each day after the expiration of the license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the department. If the application is withdrawn or denied, the application fee along with any other applicable fee are not refundable.

(2) The minimum standards for license renewal for mortgage loan originators shall include the following:

(a) The mortgage loan originator continues to meet the minimum standards for license issuance under Section 81-18-9(4).

(b) The mortgage loan originator has satisfied the annual continuing education requirements described in Section 81-18-15(5).

(c) The mortgage loan originator has paid all required fees for renewal of the license. Annual renewals of this license shall require a fee of One Hundred Dollars ($100.00).

(3) The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry. If the renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. However, if the initial loan originator license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. If the renewal fee is not paid before the expiration date of the license, the mortgage loan originator shall be liable for the initial license fee, which is Two Hundred Dollars ($200.00), in order to renew.

(4) Any licensee making timely and proper application for a license renewal shall be permitted to continue to operate under

its existing license until its application is approved or rejected, but shall not be released from or otherwise indemnified for any act covered by this chapter or for any penalty incurred under this chapter as a result of any violation of this chapter or regulations adopted under this chapter, pending final approval or disapproval of the application for the license renewal.

(5) In order to meet the annual continuing education requirements referred to in Section 81-18-15(2)(b), a licensed mortgage loan originator shall complete at least eight (8) hours of education approved in accordance with subsection (2) of this section, which shall include at least:

(a) Three (3) hours of federal law and regulations;

(b) Two (2) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; and

(c) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.

(6) For the purposes of subsection (5) of this section, continuing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

(7) Nothing in this section shall preclude any education course, as approved by the Nationwide Mortgage Licensing System

and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity.

(8) Continuing education may be offered either in a classroom, online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(9) A licensed mortgage loan originator:

(a) Except for Section 81-18-15(3) and subsection (13) of this section, may only receive credit for a continuing education course in the year in which the course is taken; and

(b) May not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(10) A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two (2) hours credit for every one (1) hour taught.

(11) A person having successfully completed the education requirements approved by the Nationwide Mortgage Licensing System and Registry in subsection (5) of this section for any state shall be accepted as credit towards completion of continuing education requirements in Mississippi.

(12) A licensed mortgage loan originator who later becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

(13) A person meeting the requirements of subsection (2)(a) and (c) of this section may make up any deficiency in continuing education as established by rule or regulation of the commissioner.

SECTION 11. Section 81-18-17, Mississippi Code of 1972, is reenacted as follows:

81-18-17. (1) A license may not be transferred or assigned.

(2) No licensee shall transact business under any name other than that designated in the license.

(3) A licensed mortgage broker or mortgage lender shall notify the department through the Nationwide Mortgage Licensing System and Registry of any change in the address of its principal place of business or of any change in the address of an additional licensed branch location within thirty (30) days of the change.

(4) No licensee shall open a branch office in this state or a branch office outside this state from which the licensee has direct contact with consumers regarding origination or brokering Mississippi residential property, without prior approval of the department. An application for any branch office shall be made through the Nationwide Mortgage Licensing System and Registry on a form prescribed by the department, which shall include at least

evidence of compliance with subsection (1) of Section 81-18-25 as to that branch and shall be accompanied by payment of a nonrefundable application fee of Three Hundred Dollars ($300.00) and at least one (1) loan originator application licensed at that branch office. The application shall be approved unless the department finds that the applicant has not conducted business under this chapter in accordance with law. Each branch office that currently holds a branch license shall renew that branch license before the expiration date of the main company license, on or before December 31; however, if the initial branch license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. The license renewal shall be on a form prescribed by the department with a nonrefundable renewal application fee of One Hundred Dollars ($100.00). If the annual renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. If the renewal fee is not paid before the expiration date of the license, the branch shall be liable for the initial license fee, which is Three Hundred Dollars ($300.00), in order to renew.

(5) A licensed mortgage broker or mortgage lender shall notify the department within thirty (30) days by submitting a sponsorship removal in the Nationwide Mortgage Licensing System and Registry when a loan originator is released from its employment. In addition, the licensed mortgage broker or mortgage

lender shall notify the department within thirty (30) days through the Nationwide Mortgage Licensing System and Registry when there is a change of the qualifying individual of the licensee.

SECTION 12. Section 81-18-19, Mississippi Code of 1972, is reenacted as follows:

81-18-19. (1) Except as provided in this section, no person shall acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business under this chapter unless it first files an application in accordance with the requirements prescribed in Section 81-18-9.

(2) Upon the filing and investigation of an application, the department shall permit the applicant to acquire the interest in the licensee if it is satisfied and finds that the applicant and its members, if applicable, its directors and officers, if a corporation, and any proposed new directors and officers have provided its surety bond and have the character, reputation and experience to warrant belief that the business will be operated fairly and in accordance with the law. If the application is denied, the department shall notify the applicant of the denial and the reasons for the denial.

(3) A decision of the department denying a license, original or renewal, shall be conclusive, except that the applicant may seek judicial review in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(4) The provisions of this section do not apply to the following, subject to notification as required in this section:

(a) The acquisition of an interest in a licensee directly or indirectly including an acquisition by merger or consolidation by or with a person licensed under this chapter or exempt from this chapter under Section 81-18-5.

(b) The acquisition of an interest in a licensee directly or indirectly including an acquisition by merger or consolidation by or with a person affiliated through common ownership with the licensee.

(c) The acquisition of an interest in a licensee by a person by bequest, devise, gift or survivorship or by operation of law.

(5) A person acquiring an interest in a licensee in a transaction that is requesting exemption from filing an application for approval of the application shall send a written request to the department for an exemption within thirty (30) days before the closing of the transaction.

SECTION 13. Section 81-18-21, Mississippi Code of 1972, is reenacted and amended as follows:

81-18-21. (1) Any person required to be licensed under this chapter shall maintain in its offices, or such other location as the department shall permit, the books, accounts and records necessary for the department to determine whether or not the person is complying with the provisions of this chapter and the

rules and regulations adopted by the department under this chapter. These books, accounts and records shall be maintained apart and separate from any other business in which the person is involved and may represent historical data for * * * five (5) years * * * from the final disposition of the loan application to which the records relate. The books, accounts and records for individual consumer mortgage files shall be maintained apart and separate from any other personal loan files made by the same consumer. The books, accounts and records shall be kept in a secure location under conditions that will not lead to their damage or destruction. If the licensee wishes to keep the files in a location other than the location listed on the license, then the licensee first must submit a written request on a form designated by the department and gain written approval from the commissioner before storing the files at an off-site secure location.

(2) To assure compliance with the provisions of this chapter, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner shall charge the licensee an examination fee in an amount not less than Three Hundred Dollars ($300.00) nor more than Six Hundred Dollars ($600.00) per day with a maximum examination fee of Two Thousand Four Hundred Dollars ($2,400.00) for each office or location within the State of Mississippi, and an examination fee in an amount not less than Three Hundred Dollars

($300.00) nor more than Eight Hundred Dollars ($800.00) per day for each office or location outside the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(3) The department, its designated officers and employees, or its duly authorized representatives, for the purposes of discovering violations of this chapter and for the purpose of determining whether any person or individual reasonably suspected by the commissioner of conducting business that requires a license under this chapter, may investigate those persons and individuals and examine all relevant books, records and papers employed by those persons or individuals in the transaction of business, and may summon witnesses and examine them under oath concerning matters as to the business of those persons, or other such matters as may be relevant to the discovery of violations of this chapter, including, without limitation, the conduct of business without a license as required under this chapter.

(4) Each licensee, individual or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of the licensee, individual or person subject to this chapter. The commissioner

shall have access to those books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual or person subject to this chapter concerning their business. Failure to produce the books and records within sixty (60) days from the date of request may result in a violation of this chapter, resulting in a civil penalty.

(5) Each licensee, individual or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section, including, but not limited to:

(a) Accounting compilations;

(b) Information lists and data concerning loan transactions in a format prescribed by the commissioner; or

(c) Such other information deemed necessary to carry out the purposes of this section.

(6) In making any examination or investigation authorized by this chapter, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except under a court order or with the consent of the commissioner. Unless the

commissioner has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(7) The commissioner shall report regularly violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in Section 81-18-63.

(8) Examinations and investigations conducted under this chapter and information obtained by the department, except as provided in subsection (7) of this section, in the course of its duties under this chapter are confidential.

(9) In the absence of malice, fraud or bad faith a person is not subject to civil liability arising from the filing of a complaint with the department, furnishing other information required by this chapter, information required by the department under the authority granted in this chapter, or information voluntarily given to the department related to allegations that a licensee or prospective licensee has violated this chapter. Failure of a person to respond to a formal complaint made with the department by a consumer may result in a violation of this chapter, resulting in a civil penalty.

(10) In order to carry out the purposes of this section, the commissioner may:

(a) Accept and rely on examination or investigation reports made by other government officials, within or without this state; or

(b) Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner; or

(c) Rely upon attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations; or

(d) Enter into agreements or relationships with other government officials or regulatory associations, including, but not limited to, joint enforcement action, by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section.

(11) The authority of this section shall remain in effect, whether such a licensee, individual or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without that authority.

(12) No licensee, individual or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, falsify, abandon or secret any books, records, computer records or other information.

SECTION 14. Section 81-18-23, Mississippi Code of 1972, is reenacted as follows:

81-18-23. (1) Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require. Failure to file accurate, timely and complete reports on the Nationwide Mortgage Licensing System and Registry may result in a violation of this chapter, resulting in a civil penalty.

(2) The department, in its discretion, may relieve any company from the payment of any penalty, in whole or in part, for good cause.

(3) If a company fails to pay a penalty from which it has not been relieved, the department may maintain an action at law to recover the penalty.

(4) Within fifteen (15) days of the occurrence of any of the following events, a company shall file with the Nationwide Mortgage Licensing System and Registry the applicable change in the disclosure questions and shall submit the information through the Nationwide Mortgage Licensing System and Registry or file a

written report with the commissioner describing the event and its expected impact on the activities of the company in this state:

(a) The filing for bankruptcy or reorganization by the company;

(b) The institution of revocation or suspension proceedings against the company by any state or governmental authority;

(c) Any felony indictment of the company or any of its directors, executive officers, qualifying individual or loan originators;

(d) Any felony conviction of the company or any of its directors, executive officers, qualifying individual or loan originators;

(e) Expiration, termination or default, technical or otherwise, of any existing line of credit or warehouse credit agreement;

(f) Suspension or termination of the licensee's status as an approved seller or seller/servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association;

(g) Exercise of recourse rights by investors or subsequent assignees of mortgage loans if such loans, in the aggregate, exceed the licensee's net worth exclusive of real property and fixed assets; or

(h) Existence of negative balances, exceeding One Hundred Dollars ($100.00) in any operation account at any time or the return of checks, exceeding One Hundred Dollars ($100.00) for insufficient funds.

(5) Licensees who are involved in civil actions shall notify the Nationwide Mortgage Licensing System and Registry within sixty (60) days of the occurrence. An explanation and supporting documentation for each civil action concerning the company shall be submitted through the Nationwide Mortgage Licensing System and Registry. The department may require additional information as necessary.

SECTION 15. Section 81-18-25, Mississippi Code of 1972, is reenacted as follows:

81-18-25. (1) Each principal place of business and branch office in the state shall meet all of the following requirements:

(a) Be in compliance with local zoning ordinances and have posted any licenses required by local government agencies. It is the responsibility of the licensee to meet local zoning ordinances and obtain the required occupational licenses; however, zoning cannot be residential. If there is no zoning in the area, then the person shall submit to the department a letter from the city or county stating that there is no zoning.

(b) Consist of at least one (1) secure enclosed room or secure building of stationary construction in which negotiations of mortgage loan transactions may be conducted in privacy.

Stationary construction does not include the use of portable buildings. If there is no zoning in the requested location and the property is used for residential purposes, then the person shall utilize an enclosed room with a dedicated outside door.

(c) Display a permanent sign outside the place of business readily visible to the general public, unless the display of sign violates local zoning ordinances or restrictive covenants. The sign must contain the name of the licensee and shall also contain the Nationwide Mortgage Licensing System and Registry Unique Identifier issued to that particular licensed location.

(2) If one (1) of the following is correct, then that location shall be licensed as a mortgage broker or mortgage lender under this chapter and not as a branch:

(a) It is a separate entity operating as an independent business or mortgage operation which is not under the direct control, management supervision and responsibility of the licensee;

(b) The licensee is not the lessee or owner of the branch and the branch is not under the direct and daily ownership, control, management and supervision of the licensee;

(c) All assets and liabilities of the branch are not assets and liabilities of the licensee, and all income and expenses of the branch are income and expenses of the licensee and properly accounted for in the financial records and tax returns of the licensee; or

(d) All practices, policies and procedures, including, but not limited to, those relating to employment and operations, are not originated and established by the licensee or registered company and are not applied consistently to the principal place of business and all branches.

Nothing in this subsection (2) shall affect or change, or be construed as affecting or changing, the existing statutory law and common law on agency, principal and agent, independent contractors, and parent and subsidiary companies.

SECTION 16. Section 81-18-27, Mississippi Code of 1972, is reenacted as follows:

81-18-27. (1) No person required to be licensed under this chapter shall:

(a) Directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person.

(b) Misrepresent to or conceal from an applicant for a mortgage loan or mortgagor, material facts, terms or conditions of a transaction to which the licensee is a party.

(c) Fail to disburse funds in accordance with a written commitment or agreement to make a mortgage loan.

(d) Fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction.

(e) Improperly refuse to issue a satisfaction of a mortgage loan.

(f) Fail to account for or deliver to any person any personal property obtained in connection with a mortgage loan, such as money, funds, deposits, checks, drafts, mortgages or other documents or things of value that have come into the possession of the licensee and that are not the property of the licensee, or that the licensee is not by law or at equity entitled to retain.

(g) Engage in any transaction, practice, or course of business that is not in good faith, or that operates a fraud upon any person in connection with the making of or purchase or sale of any mortgage loan, including the use of correction fluid on any document associated with the mortgage loan.

(h) Engage in any fraudulent residential mortgage underwriting practices, which include, but are not limited to, making in any manner, any false or deceptive statement or representation including, with regard to the rates, points or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising.

(i) Solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower.

(j) Induce, require, or otherwise permit the applicant for a mortgage loan or mortgagor to sign a security deed, note, or other pertinent financial disclosure documents with any blank

spaces to be filled in after it has been signed, except blank spaces relating to recording or other incidental information not available at the time of signing.

(k) Make, directly or indirectly, any residential mortgage loan with the intent to foreclose on the borrower's property. For purposes of this paragraph, there is a presumption that a person has made a residential mortgage loan with the intent to foreclose on the borrower's property if any of the following circumstances are proven:

(i) Lack of substantial benefit to the borrower;

(ii) The probability that full payment of the loan cannot be made by the borrower;

(iii) That the person has made a significant proportion of loans foreclosed under similar circumstances;

(iv) That the person has provided an extension of credit or collected a mortgage debt by extortion;

(v) That the person does business under a trade name that misrepresents or tends to misrepresent that the person is a bank, trust company, savings bank, savings and loan association, credit union, or insurance company.

(l) Charge or collect any direct payment, compensation or advance fee from a borrower unless and until a loan is actually found, obtained and closed for that borrower, and in no event shall that direct payment, compensation or advance fee exceed seven and ninety-five one-hundredths percent (7.95%) of the

original principal amount of the loan, and any such direct payments, compensation or advance fees shall be included in all annual percentage rate (APR) calculations if required under Regulation Z of the federal Truth in Lending Act (TILA). A direct payment, compensation or advance fee as defined in this section shall not include:

(i) Any direct payment, compensation or advance fee collected by a licensed mortgage broker or mortgage lender to be paid to a nonrelated third party;

(ii) Any indirect payment to a licensed mortgage broker or mortgage lender by a lender if those fees are not required to be disclosed under the Real Estate Settlement Procedures Act (RESPA);

(iii) Any indirect payment or compensation by a lender to a licensee required to be disclosed by the licensee under RESPA, provided that the payment or compensation is disclosed to the borrower by the licensee on a good faith estimate of costs, is included in the APR if required under Regulation Z of TILA, and is made pursuant to a written agreement between the licensee and the borrower as may be required by Section 81-18-33;

(iv) A fee not to exceed one percent (1%) of the principal amount of a loan for construction, provided that a binding commitment for the loan has been obtained for the prospective borrower; or

(v) An advance fee, known as a lock-in fee, collected by a licensee to be paid to a lender to lock in an interest rate and/or a certain number of points on a mortgage loan from the lender as provided in Section 81-18-28.

(m) Pay to any person not licensed under the provisions of this chapter any commission, bonus or fee in connection with arranging for or originating a mortgage loan for a borrower, except that a licensed loan originator may be paid a bonus, commission, or fee by his or her licensed employer.

(n) Refuse to provide the loan payoff within three (3) business days of an oral or written request from a borrower or third party. Proof of authorization of the borrower shall be submitted for a third-party request. The payoff statement must be an understandable and accurate statement of the total amount that is required to pay off the mortgage loan as of a specified date. No borrower shall be charged a fee for being informed or receiving a payoff statement or for being provided with a release upon full payment, provided that the licensed mortgage lender may charge a reasonable fee for providing a payoff statement after five (5) or more requests in any calendar year.

(o) Knowingly withhold, extract, remove, mutilate, destroy or conceal any books, records, computer records or other information which are required by law to be disclosed.

(p) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection

with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the commissioner or another governmental agency.

(q) Fail to comply with this chapter or rules or regulations promulgated under this chapter, or fail to comply with any other state or federal law, including the rules and regulations under that law, applicable to any business authorized or conducted under this chapter.

(r) Conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter.

(s) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

(t) Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting.

(u) Fail to make disclosures as required by this chapter and any other applicable state or federal law including regulations under that law.

(v) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer.

(w) Sign a consumer's name to a mortgage loan application or mortgage loan documents on behalf of a consumer.

(x) Knowingly falsify income or asset information on a mortgage loan application or mortgage loan documents.

(y) Discourage a consumer in a mortgage loan transaction from seeking or obtaining independent legal counsel or legal advice.

(2) A licensed mortgage broker or mortgage lender shall only broker a residential mortgage loan to a mortgage broker or mortgage lender licensed under this chapter or to a person exempt from licensure under the provisions of this chapter.

(3) No nonbanking entity may use any sign or handwritten or printed paper indicating that it is a bank, savings bank, trust company or place of banking. No entity may use the word "bank," "savings bank," "banking," "banker" or "trust company," or the equivalent or plural of any of these words, in connection with any business other than that of banking. This subsection does not prohibit a person from acting in a trust capacity.

(4) No person shall use the name or logo of any banking entity in connection with the sale, offering for sale, or advertising of any financial product or service without the express written consent of the banking entity.

(5) No unlicensed Mississippi location of a Mississippi licensed mortgage broker or mortgage lender may advertise mortgage services if the unlicensed location is more than fifty (50) miles from a licensed Mississippi location.

SECTION 17. Section 81-18-28, Mississippi Code of 1972, is reenacted as follows:

81-18-28. (1) A licensed mortgage broker or mortgage lender may enter into lock-in agreements and collect a lock-in fee from a borrower on the lender's behalf. The lock-in fee shall not exceed the following:

(a) No fee may be collected to lock in for sixty (60) days or less;

(b) One percent (1%) of the principal amount of the loan to lock in for more than sixty (60) days, but not to exceed one hundred eighty (180) days;

(c) One and one-half percent (1-1/2%) of the principal amount of the loan to lock in for more than one hundred eighty (180) days, but not to exceed two hundred seventy (270) days; or

(d) Two percent (2%) of the principal amount of the loan to lock in for more than two hundred seventy (270) days.

(2) Before the collection of a lock-in fee, the applicant must be provided a copy of the lock-in fee agreement. This agreement shall contain at least the following:

(a) Identification of the property that is associated with the loan;

(b) The principal amount and term of the loan;

(c) The initial interest rate and/or points, whether the interest rate is fixed or variable, and if variable, the index and margin, or the method by which an interest rate change for the mortgage loan will be calculated;

(d) The amount of the lock-in fee, whether the fee is refundable or nonrefundable, the time by which the lock-in fee must be paid to the lender, and if the fee is refundable, the terms and conditions necessary to obtain the refund; and

(e) The length of the lock-in period that the agreement covers.

SECTION 18. Section 81-18-29, Mississippi Code of 1972, is reenacted as follows:

81-18-29. The commissioner shall promulgate those rules and regulations, not inconsistent with law, necessary for the enforcement of this chapter.

SECTION 19. Section 81-18-31, Mississippi Code of 1972, is reenacted as follows:

81-18-31. The department shall promulgate regulations governing the advertising of mortgage loans, including, but not limited to, the following requirements:

(a) That all advertisements for loans regulated under this chapter may not be false, misleading or deceptive. No person whose activities are regulated under this chapter may advertise in any manner so as to indicate or imply that its interest rates or charges for loans are "recommended," "approved," "set" or "established" by the State of Mississippi;

(b) That all licensees shall maintain a copy of all advertisements citing interest rates or payment amounts primarily disseminated in this state and shall attach to each advertisement documentation that provides corroboration of the availability of the interest rate and terms of loans and names the specific media sources by which the advertisements were distributed;

(c) That all published advertisements disseminated primarily in this state by a license shall contain the name and an office address of the licensee, which shall be the same as the name and address of the licensee on record with the department;

(d) That an advertisement containing either a quoted interest rate or monthly payment amount must include:

(i) The interest rate of the mortgage, a statement as to whether the rate is fixed or adjustable, and the adjustment index and frequency of adjustments;

(ii) The term in years or months to fully repay the mortgage;

(iii) The APR as computed under federal guidelines; and

(e) That the unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or websites, and any other documents as established by rule, regulation or order of the commissioner.

SECTION 20. Section 81-18-33, Mississippi Code of 1972, is reenacted and amended as follows:

81-18-33. (1) The individual borrower files of a licensee shall contain at least the following:

(a) A mortgage origination agreement provided to the borrower containing at least the following statements:

(i) "As required by Mississippi Law, (licensed company name) has secured a bond issued by (name of insurance company), a surety company authorized to do business in this state. A certified copy of this bond is filed with the Mississippi Commissioner of Banking and Consumer Finance."

(ii) "As a borrower you are protected under the Mississippi S.A.F.E. Mortgage Act."

(iii) "Complaints against a licensee may be made by contacting the:

Mississippi Department of Banking and
Consumer Finance
P.O. Drawer 12129
Jackson, MS 39236-2129";

(b) A copy of the original loan application signed and dated by the licensee;

(c) A copy of the signed closing statement as required by HUD or documentation of denial or cancellation of the loan application;

(d) A copy of the * * * loan estimate of costs provided to the borrower;

(e) A copy of the appraisal or statement of value if procured as a part of the loan application process;

(f) A copy of a loan lock-in agreement, if any, provided by the licensee;

(g) A copy of the disclosures required under Regulation Z of the federal Truth In Lending Act and other disclosures as required under federal regulations and evidence that those disclosures have been properly and timely made to the borrower; * * *

(h) A copy of the final signed Uniform Residential Loan Application. However, any mortgage licensee who holds a license under the provisions of the Small Loan Regulatory Law, Section 75-67-101 et seq., and the Small Loan Privilege Tax Law, Section

75-67-201 et seq., may substitute an application that is otherwise compliant with federal and state law * * *; and

(i) Additional information as required per the rules and regulations adopted by the commissioner according to Section 81-18-29.

(2) The individual servicer files of a licensee shall contain at least the following:

(a) A copy of the original initial loan application signed and dated by the licensee;

(b) A copy of the final loan application signed and dated by the licensee;

(c) A copy of the signed closing statement as required by HUD or documentation of denial or cancellation of the loan application;

(d) Modification agreements;

(e) Collection/default letters and related documentation;

(f) Addendums, riders, assigned note, if applicable;

(g) Complete pay history from the time the loan was transferred or boarded;

(h) Complete comment/note history from the time the loan was transferred or boarded; and

(i) Additional information as required per the rules and regulations of this chapter as deemed by the commissioner according to Section 81-18-29.

SECTION 21. Section 81-18-35, Mississippi Code of 1972, is reenacted as follows:

81-18-35. (1) Each licensee shall maintain a journal of mortgage transactions at the principal place of business as stated on its license for all Mississippi residential loans that the licensee originated and/or funded. This journal shall be separate from non-Mississippi loans. The journal shall include at least the following information:

(a) Name of applicant and co-applicant, if applicable;

(b) Date of application;

(c) Disposition of loan application, indicating date of loan closing, loan denial, withdrawal and name of lender if applicable;

(d) Property address;

(e) Loan amount;

(f) Terms;

(g) Loan program; and

(h) Loan originator.

(2) Each licensee shall maintain a journal of serviced loans at the principal place of business as stated on its license, for all Mississippi residential loans that the licensee owns and/or services. This journal shall be kept separate from non-Mississippi loans. The journal shall include at least the following information:

(a) The number of mortgage loans the licensee is servicing;

(b) The type and characteristics of the loans;

(c) The number of serviced loans in default, along with a breakdown of thirty-, sixty- and ninety-day delinquencies;

(d) Information on loss mitigation activities, including details on workout arrangements undertaken and date loss mitigation application was submitted/approved/denied;

(e) Information on foreclosures commenced and completed;

(f) Name of applicant and co-applicant, if applicable; and

(g) Date the loan was boarded/deboarded, if applicable.

SECTION 22. Section 81-18-36, Mississippi Code of 1972, is reenacted as follows:

81-18-36. (1) (a) All monies paid to a licensee for payment of taxes, loan commitment deposits, work completion deposits, appraisals, credit reports or insurance premiums on property that secures any loan made or serviced by the licensee shall be deposited in an account that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and shall be kept separate, distinct, and apart from funds belonging to the licensee.

(b) The funds, when deposited, are to be designated as an "escrow account," or under some other appropriate name, indicating that the funds are not the funds of the licensee.

(2) The licensee shall, upon reasonable notice, account to any debtor whose property secures a loan made by the licensee for any funds which that person has paid to the licensee for the payment of taxes or insurance premiums on the property in question.

(3) The licensee shall, upon reasonable notice, account to the commissioner for all funds in the company's escrow account.

(4) Escrow accounts are not subject to execution or attachment on any claim against the licensee.

(5) It is unlawful for any licensee knowingly to keep or cause to be kept any funds or money in any bank or other financial institution under the heading of "escrow account" or any other name designating the funds or monies belonging to the debtors of the licensee, except actual funds paid to the licensee for the payment of taxes and insurance premiums on property securing loans made or serviced by the company.

SECTION 23. Section 81-18-37, Mississippi Code of 1972, is reenacted as follows:

81-18-37. (1) The department may suspend or revoke any license for any reason that would have been grounds for refusal to issue an original license or for:

(a) A violation of any provision of this chapter or any rule or regulation adopted under this chapter;

(b) Failure of the licensee to pay, within thirty (30) days after it becomes final and nonappealable, a judgment recovered in any court within this state by a claimant or creditor in an action arising out of the licensee's business in this state as a mortgage broker or mortgage lender.

(2) Notice of the department's intention to enter an order denying an application for a license under this chapter or of an order suspending or revoking a license under this chapter shall be given to the applicant, licensee in writing, sent by registered or certified mail addressed to the principal place of business of the applicant or licensee. Within thirty (30) days of the date of the notice of intention to enter an order of denial, suspension or revocation under this chapter, the applicant or licensee may request in writing a hearing to contest the order. If a hearing is not requested in writing within thirty (30) days of the date of the notice of intention, the department shall enter a final order regarding the denial, suspension or revocation. Any final order of the department denying, suspending or revoking a license shall state the grounds upon which it is based and shall be effective on the date of issuance. A copy of the final order shall be forwarded promptly by registered or certified mail addressed to the principal place of business of the applicant or licensee.

SECTION 24. Section 81-18-39, Mississippi Code of 1972, is reenacted as follows:

81-18-39. (1) For purposes of this section, the term "person" shall be construed to include any officer, director, employee, affiliate or other person participating in the conduct of the affairs of the person subject to the orders issued under this section.

(2) If the department reasonably determines that a person required to be licensed under this chapter has violated any law of this state or any order or regulation of the department, the department may issue a written order requiring the person to cease and desist from unlawful or unauthorized practices. In the case of an unlawful purchase of mortgage loans, the cease and desist order to a purchaser shall constitute the knowledge required under this section for any subsequent violations.

(3) Any person required to be licensed under this chapter who has been deemed by the commissioner, after notice and hearing, to have violated the terms of any order properly issued by the department under this section shall be liable for a civil penalty not to exceed Three Thousand Dollars ($3,000.00). The department, in determining the amount of the penalty, shall take into account the appropriateness of the penalty relative to the size of the financial resources of the person, the good-faith efforts of the person to comply with the order, the gravity of the violation, the history of previous violations by the person, and other factors or

circumstances that contributed to the violation. The department may compromise, modify or refund any penalty that has been imposed under this section. Any person assessed a penalty as provided in this subsection shall have the right to request a hearing on the amount of the penalty within ten (10) days after receiving notification of the assessment. If no hearing is requested within ten (10) days of the receipt of the notice, the penalty shall be final except as to judicial review in the Chancery Court of the First Judicial District of Hinds County. Upon the filing of a petition for judicial review, the court shall issue an order to the licensee requiring the licensee to show cause why it should not be entered. If the court determines, after a hearing upon the merits or after failure of the person to appear when so ordered, that the order of the department was properly issued, it shall grant the penalty sought by the department.

SECTION 25. Section 81-18-40, Mississippi Code of 1972, is reenacted as follows:

81-18-40. (1) For the purpose of conducting investigations, examinations or other proceedings under this chapter, the commissioner or his designee may issue subpoenas to any individual, person or other entity for the production of all books, papers, records, files, documents or other things, and may subpoena and compel the attendance of witnesses to give testimony, and may administer oaths. Subpoenas as herein provided may be served either by personal process or by registered mail, and upon

service shall command attendance of such witnesses, and/or production of such papers and documents, at the time and place so specified.

(2) Any person or entity who fails or refuses to comply with a subpoena issued hereunder may be assessed by the commissioner a civil penalty of not more than Five Hundred Dollars ($500.00) for each day of noncompliance, and any privileges or licenses issued by the commissioner to the person or entity may be suspended for not more than six (6) months. In addition to the civil penalty, the commissioner shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the commissioner or his designee, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance therewith, and assess attorney's fees and costs, if deemed appropriate.

SECTION 26. Section 81-18-41, Mississippi Code of 1972, is reenacted as follows:

81-18-41. Nothing in this chapter shall preclude a person whose license has been suspended or revoked from continuing to service mortgage loans pursuant to servicing contracts in existence at the time of the suspension or revocation for a reasonable transition period, as determined by the commissioner, after the date of the entry of the final decision in the case suspending or revoking the license.

SECTION 27. Section 81-18-43, Mississippi Code of 1972, is reenacted as follows:

81-18-43. (1) In order to ensure the effective supervision and enforcement of this chapter, the commissioner may:

(a) Deny, suspend, revoke, condition or decline to renew a license for a violation of this chapter, rules or regulations issued under this chapter or order or directive entered under this chapter.

(b) Deny, suspend, revoke, condition or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of Section 81-18-9(4) or 81-18-15(2), or withholds information or makes a material misstatement in an application for a license or renewal of a license.

(c) Order restitution against persons subject to this chapter for violations of this chapter.

(d) Impose civil penalties on persons subject to this chapter under subsections (2) and (3) of this section.

(e) Issue orders or directives under this chapter as follows:

(i) Order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist.

(ii) Order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist.

(iii) Enter immediate temporary orders to cease business under a license issued under the authority granted under Section 81-18-7(6) if the commissioner determines that the license was erroneously granted or the licensee is currently in violation of this chapter.

(iv) Order or direct such other affirmative action as the commissioner deems necessary.

(2) The commissioner may impose a civil penalty on a mortgage loan originator or person subject to this chapter, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any regulation prescribed by the commissioner under this chapter or order issued under authority of this chapter. The maximum amount of penalty for each act or omission described in this subsection shall be Twenty-five Thousand Dollars ($25,000.00).

(3) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

(4) For a first offense, the licensee, person required to be licensed, or employee may be found guilty of a misdemeanor and, upon conviction thereof, shall be punishable by imprisonment in the county jail for not more than one (1) year.

(5) For a second or subsequent offense, the licensee, person required to be licensed, or employee shall be guilty of a felony and, upon conviction thereof, may be punished by imprisonment in the custody of the State Department of Corrections for a term not less than one (1) year nor more than five (5) years.

(6) Compliance with the criminal provisions of this section shall be enforced by the appropriate law enforcement agency, which may exercise for that purpose any authority conferred upon the agency by law.

(7) The commissioner shall report regularly violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in Section 81-18-63.

(8) The state may enforce its rights under the surety bond as required in Section 81-18-11 as an available remedy for the collection of any civil penalties, criminal fines or costs of investigation and/or prosecution incurred.

(9) Any person assessed a penalty as provided in this section shall have the right to request a hearing on the amount of the penalty within ten (10) days after receiving notification of the assessment. If no hearing is requested within ten (10) days of the receipt of the notice, the penalty shall be final except as to judicial review in the Chancery Court of the First Judicial District of Hinds County. Upon the filing of a petition for judicial review, the court shall issue an order to the licensee

requiring the licensee to show cause why it should not be entered. If the court determines, after a hearing upon the merits or after failure of the person to appear when so ordered, that the order of the department was properly issued, it shall grant the penalty sought by the department.

SECTION 28. Section 81-18-45, Mississippi Code of 1972, is reenacted as follows:

81-18-45. The commissioner may employ the necessary full-time employees above the number of permanent full-time employees authorized for the department for the fiscal year 2001, to carry out and enforce the provisions of this chapter. The commissioner also may expend the necessary funds and equip and provide necessary travel expenses for those employees.

SECTION 29. Section 81-18-47, Mississippi Code of 1972, is reenacted as follows:

81-18-47. (1) A licensee under this chapter shall have no liability for any act or practice done or omitted in conformity with (a) any rule or regulation of the commissioner, or (b) any rule, regulation, interpretation or approval of any other state or federal agency or any opinion of the Attorney General, notwithstanding that after such act or omission has occurred the rule, regulation, interpretation, approval or opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(2) A licensee under this chapter, acting in conformity with a written interpretation or approval by an official or employee of any state or federal agency or department, shall be presumed to have acted in accordance with applicable law, notwithstanding that after such act has occurred, the interpretation or approval is amended, rescinded, or determined by judicial or other authority to be incorrect or invalid for any reason.

SECTION 30. Section 81-18-49, Mississippi Code of 1972, is reenacted as follows:

81-18-49. Notwithstanding any provisions of this chapter to the contrary, mortgage companies engaging in business on or before June 1, 2000, shall be duly licensed by the department after submitting not later than January 1, 2001, the required documents and fees provided in Sections 81-18-9 and 81-18-15. However, upon the expiration of the initial licenses for such mortgage companies, the department shall renew the licenses only if the mortgage companies satisfy all of the provisions of this chapter.

SECTION 31. Section 81-18-53, Mississippi Code of 1972, is reenacted as follows:

81-18-53. The provisions of this chapter shall apply to the activities of retail sellers of manufactured homes to the extent as determined by the United States Department of Housing and Urban Development through guidelines, rules, regulations or interpretive letters or the United States Consumer Financial Protection Bureau.

SECTION 32. Section 81-18-55, Mississippi Code of 1972, is reenacted as follows:

81-18-55. (1) In addition to the activities prohibited under other provisions of this chapter, it shall be unlawful in the course of any residential mortgage loan transaction:

(a) For any person to fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by Sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA) and regulations adopted thereunder;

(b) For a mortgage lender to fail to provide written notice to a borrower upon taking action to place hazard, homeowners, or flood insurance on the mortgaged property or to place such insurance when the mortgage lender knows or has reason to know that the insurance is in effect;

(c) For a mortgage lender to place hazard, homeowners or flood insurance on a mortgaged property for an amount that exceeds either the value of the insurable improvements or the last-known coverage amount of insurance;

(d) For a mortgage lender to fail to provide to the borrower a refund or earned premiums paid by a borrower or charged to the borrower for hazard, homeowners, or flood insurance placed by a mortgage lender if the borrower provides reasonable proof that the borrower has obtained coverage such that the forced placement is no longer necessary and the property is insured. If

the borrower provides reasonable proof within twelve (12) months of the placement that no lapse in coverage occurred such that the forced placement was not necessary, the mortgage lender shall refund the entire premium;

(e) For a mortgage lender to refuse to reinstate a delinquent loan upon a tender of payment made timely under the contract which is sufficient in amount, based upon the last written statement received by the borrower, to pay all past-due amounts, outstanding or overdue charges, and restore the loan to a nondelinquent status, but his reinstatement shall be available to a borrower no more than twice in any twenty-four-month period;

(f) For a mortgage lender to fail to mail, at least forty-five (45) days before the power-of-sale foreclosure auction is conducted, a notice addressed to the borrower at the borrower's last-known address with the following information:

(i) An itemization of all past-due amounts causing the loan to be in default;

(ii) An itemization of any other charges that must be paid in order to bring the loan current;

(iii) A statement that the borrower may have options available other than foreclosure and that the borrower may discuss the options with the mortgage lender, or a counselor approved by the U.S. Department of Housing and Urban Development (HUD);

(iv) The address, telephone number, and other contact information for the mortgage lender or the agent for the mortgage lender who is authorized to attempt to work with the borrower to avoid foreclosure;

(v) The name, address, telephone number, and other contact information for one or more HUD-approved counseling agencies operating to assist borrowers in Mississippi to avoid foreclosure; and

(vi) The address, telephone number, and other contact information for the consumer complaint section of the Mississippi Department of Banking and Consumer Finance;

(g) For a mortgage lender to fail to make all payments from any escrow account held for the borrower for insurance, taxes and other charges with respect to the property in a timely manner so as to ensure that no late penalties are assessed or other negative consequences result regardless of whether the loan is delinquent, unless there are not sufficient funds in the account to cover the payments and the mortgage lender has a reasonable basis to believe that recovery of the funds will not be possible.

(2) The mortgage lender shall make reasonable attempts to comply with a borrower's request for information about the home loan account and to respond to any dispute initiated by the borrower about the loan account, as provided in this section. The mortgage lender shall maintain, until the home loan is paid in full, otherwise satisfied, or sold, written or electronic records

of each written request for information regarding a dispute or error involving the borrower's account. Specifically, the mortgage lender is required to do all of the following:

(a) Provide a written statement to the borrower within ten (10) business days of receipt of a written request from the borrower that includes or otherwise enables the mortgage lender to identify the name and account of the borrower and includes a statement that the account is or may be in error or otherwise provides sufficient detail to the mortgage lender regarding information sought by the borrower. The borrower is entitled to one such statement in any six-month period free of charge, and additional statements shall be provided if the borrower pays the mortgage lender a reasonable charge for preparing and furnishing the statement not to exceed Twenty-five Dollars ($25.00). The statement shall include the following information if requested:

(i) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(ii) The current balance due on the loan, including the principal due, the amount of funds (if any) held in a suspense account, the amount of the escrow balance (if any) known to the mortgage lender, and whether there are any escrow deficiencies or shortages known to the mortgage lender;

(iii) The identity, address and other relevant information about the current holder, owner or assignee of the loan; and

(iv) The telephone number and mailing address of a mortgage lender representative with the information and authority to answer questions and resolve disputes;

(b) Provide the following information and/or documents within twenty-five (25) business days of receipt of a written request from the borrower that includes or otherwise enables the mortgage lender to identify the name and account of the borrower and includes a statement that the account is or may be in error or otherwise provides sufficient detail to the mortgage lender regarding information sought by the borrower:

(i) A copy of the original note, or if unavailable, an affidavit of the lost note;

(ii) A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the home loan including escrow account activity and suspense account activity, if any. The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the mortgage lender has not serviced the home loan for the entire

two-year time period the mortgage lender shall provide the information going back to the date on which the mortgage lender began servicing the home loan. For purposes of this subsection, the date of the request for the information shall be presumed to be no later than thirty (30) days from the date of the receipt of the request. If the mortgage lender claims that any delinquent or outstanding sums are owed on the home loan prior to the two-year period or the period during which the mortgage lender has serviced the loan, the mortgage lender shall provide an account history beginning with the month that the mortgage lender claims any outstanding sums are owed on the loan up to the date of the request for the information. The borrower is entitled to one (1) such statement in any six-month period free of charge. Additional statements shall be provided if the borrower pays the mortgage lender a reasonable charge for preparing and furnishing the statement not to exceed Fifty Dollars ($50.00); and

(c) Promptly correct errors relating to the allocation of payments, the statement of account, or the payoff balance identified in any notice from the borrower provided in accordance with paragraph (b) of this subsection, or discovered through the due diligence of the mortgage lender or other means.

(3) A mortgage lender must comply as to every residential mortgage loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

(a) Any fee that is incurred by a mortgage lender shall be both:

(i) Assessed within forty-five (45) days of the date on which the fee was incurred. Provided, however, that attorney or trustee fees and costs incurred as a result of a foreclosure action shall be assessed within forty-five (45) days of the date they are charged by either the attorney or trustee to the mortgage lender; and

(ii) Explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last-known address within thirty (30) days after assessing the fee, provided the mortgage lender shall not be required to take any action in violation of the provisions of the federal bankruptcy code. The mortgage lender shall not be required to send such a statement for a fee that: results from a service that is affirmatively requested by the borrower, is paid for by the borrower at the time the service is provided, and is not charged to the borrower's loan account.

(b) All amounts received by a mortgage lender on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, within one (1) business day of the date received, provided that the borrower has made the full contractual payment and has provided sufficient information to credit the account. If a mortgage lender uses the scheduled method of accounting, any

regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date. Provided, however, that if any payment is received and not credited, or treated as credited, the borrower shall be notified within ten (10) business days by mail at the borrower's last-known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.

(c) The notification required by paragraph (b) of this subsection is not necessary if the mortgage lender complies with the terms of any agreement or plan made with the borrower and has applied and credited payments received in the manner required, and the mortgage lender is applying and crediting payments to the borrower's account in compliance with all applicable state and federal laws, including bankruptcy laws, and if at least one (1) of the following occurs:

(i) The borrower has entered into written loss mitigation, loan modification, or forebearance agreement with the mortgage lender that itemizes all amounts due and specifies how payments will be applied and credited;

(ii) The borrower has elected to participate in an alternative payment plan, such as a biweekly payment plan, that specifies as part of a written agreement how payments will be applied and credited; or

(iii) The borrower is making payments pursuant to a bankruptcy plan.

(d) Failure to charge the fee or provide the information within the allowable time and in the manner required under subsection (3)(a)(i) of this section constitutes a waiver of such fee.

(e) All fees charged by a mortgage lender must be otherwise permitted under applicable law and the contracts between the parties. Nothing herein is intended to permit the application of payments or method of charging interest which is less protective of the borrower than the contracts between the parties and other applicable law.

(f) A mortgage lender shall charge a sum or prepayment penalty for the prepayment of any residential mortgage loan only as authorized by Section 75-17-31.

(g) A mortgage lender shall charge a late payment charge only as authorized by Section 75-17-27.

(h) The costs of collection and reasonable attorney fees may not be in excess of twenty-five percent (25%) of the unpaid debt after default, when the debt has been referred to an attorney for collection.

(i) Charges or premiums for credit life insurance actually written on the life of the borrower or endorser in an amount not to exceed the total sum payable under the residential mortgage loan, including all interest, fees, costs and charges.

SECTION 33. Section 81-18-61, Mississippi Code of 1972, is reenacted as follows:

81-18-61. (1) In addition to any other duties imposed upon the commissioner by law, the commissioner shall require mortgage loan originators to be licensed through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the commissioner may establish, by rule, regulation or order, requirements as necessary, including, but not limited to:

(a) Background checks for:

(i) Criminal history through fingerprint or other databases;

(ii) Civil or administrative records;

(iii) Credit history; or

(iv) Any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry;

(b) The payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;

(c) The setting or resetting as necessary of renewal or reporting dates; and

(d) Requirements for amending or surrendering a license or any other such activities as the commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.

(2) The commissioner shall establish a process by which mortgage loan originators may challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner.

(3) In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(4) A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license under Section 81-18-7(4). Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

SECTION 34. Section 81-18-63, Mississippi Code of 1972, is reenacted as follows:

81-18-63. (1) Except as otherwise provided in Public Law 110-289, Section 1512, the requirements under any federal law or applicable state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage

Licensing System and Registry, and any privilege arising under federal or state law (including the rules of any federal or state court) with respect to that information or material, shall continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or applicable state law.

(2) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, the commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies as established by rule, regulation or order of the commissioner.

(3) Information or material that is subject to a privilege or confidentiality under subsection (1) of this section shall not be subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to that information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(4) Any applicable state law relating to the disclosure of confidential supervisory information or any information or material described in subsection (1) of this section that is inconsistent with subsection (1) shall be superseded by the requirements of this section.

(5) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

SECTION 35. Section 81-18-51, Mississippi Code of 1972, which provide for the repeal of provisions of law known as the "Mississippi S.A.F.E Mortgage Act," is hereby repealed.

SECTION 36. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2430

Description: Real estate appraisers, brokers and salespeople; establish statute of limitations for civil actions.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(S) Referred To Judiciary, Division A
2	03/03	(S) Title Suff Do Pass Comm Sub
3	03/10	(S) Committee Substitute Adopted
4	03/10	(S) Passed {Vote}
5	03/11	(S) Transmitted To House
6	03/25	(H) Referred To Judiciary A
7	06/09	(H) Title Suff Do Pass
8	06/16	(H) Passed {Vote}
9	06/17	(H) Returned For Enrolling
10	06/19	(S) Enrolled Bill Signed
11	06/19	(H) Enrolled Bill Signed
12	06/25	Approved by Governor

----- Additional Information -----

Senate Committee: Judiciary, Division A
House Committee: Judiciary A

Principal Author: Branning
Additional Authors: Doty

Title: AN ACT TO CREATE NEW SECTION 15-1-83, MISSISSIPPI CODE OF 1972, TO BAR CIVIL ACTIONS AGAINST REAL ESTATE APPRAISERS THAT ARE FILED AFTER THE RUNNING OF THE APPLICABLE STATUTE OF LIMITATIONS; TO CREATE NEW SECTION 15-1-85, MISSISSIPPI CODE OF 1972, TO BAR CIVIL ACTIONS AGAINST REAL ESTATE BROKERS AND SALESPEOPLE THAT ARE FILED AFTER THE RUNNING OF THE APPLICABLE STATUTE OF LIMITATIONS AND TO CREATE EXCEPTIONS TO ANY IMMUNITY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Branning, Doty To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2430

AN ACT TO CREATE NEW SECTION 15-1-83, MISSISSIPPI CODE OF 1972, TO BAR CIVIL ACTIONS AGAINST REAL ESTATE APPRAISERS THAT ARE FILED AFTER THE RUNNING OF THE APPLICABLE STATUTE OF LIMITATIONS; TO CREATE NEW SECTION 15-1-85, MISSISSIPPI CODE OF 1972, TO BAR CIVIL ACTIONS AGAINST REAL ESTATE BROKERS AND SALESPEOPLE THAT ARE FILED AFTER THE RUNNING OF THE APPLICABLE STATUTE OF LIMITATIONS AND TO CREATE EXCEPTIONS TO ANY IMMUNITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 15-1-83, Mississippi Code of 1972:

15-1-83. **Limitations applicable to actions founded on real estate appraisal.** (1) An action based on a real estate appraisal by a person who is or was licensed, certified or registered under Title 73, Chapter 34, Mississippi Code of 1972, on the date of the appraisal must be commenced against the licensed real estate appraiser, certified residential appraiser, certified general real estate appraiser or appraiser trainee who performed the appraisal, or the appraiser's or appraiser trainee's employer, or a firm with which the appraiser or appraiser's trainee is affiliated, or the lender or appraisal management firm that ordered the appraisal,

within five (5) years after the date the appraisal was relied upon or utilized by an intended user or within the time prescribed in Section 15-1-49, whichever is earlier.

(2) This section is inapplicable to any action arising from a real estate appraisal where the licensed real estate appraiser, certified residential appraiser, certified general real estate appraiser, appraiser trainee, the appraiser's or appraiser trainee's employer, a firm with which the appraiser or appraiser's trainee is affiliated, or the lender or appraisal management firm that ordered the appraisal fraudulently inflated the value of the property or colluded with others to fraudulently inflate the value of the property.

SECTION 2. The following shall be codified as Section 15-1-85, Mississippi Code of 1972:

15-1-85. **Limitations applicable to actions founded upon licensed real estate activities.** (1) An action based on actions or omissions to act by a person who is or was licensed as a broker or salesperson under the Real Estate Brokers License Law of 1954, Title 15, Chapter 1, Mississippi Code of 1972, must be commenced against the licensed or formerly licensed person, or a firm with which said person is affiliated, within five (5) years after the date of the consummation of the transaction out of which the action arose or, if not consummated, the date on which the agency relationship out of which the action arose ceased to exist, or within the time prescribed in Section 15-1-49, whichever is

earlier, or the date a broker price opinion was relied upon by an intended user.

(2) This section is inapplicable to any action arising from actions or omissions to act by a person who is or was licensed as a broker or salesperson, or a firm with which said person is or was affiliated, where that person or firm fraudulently inflated the value of the property or colluded with others to fraudulently inflate the value of the property.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2434

Description: Sales Tax Taxation of Construction-Related Activities Study Committee; create.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/14	(S) Referred To Finance
2	02/27	(S) Title Suff Do Pass Comm Sub
3	03/05	(S) Committee Substitute Adopted
4	03/05	(S) Amended
5	03/05	(S) Passed As Amended {Vote}
6	03/09	(S) Transmitted To House
7	03/13	(H) Referred To Ways and Means
8	06/09	(H) Title Suff Do Pass As Amended
9	06/10	(H) Amended
10	06/10	(H) Passed As Amended {Vote}
11	06/11	(H) Returned For Concurrence
12	06/16	(S) Concurred in Amend From House {Vote}
13	06/19	(S) Enrolled Bill Signed
14	06/19	(H) Enrolled Bill Signed
15	06/25	Approved by Governor

Amendments:

[S] Amendment No 1 (Cmte Sub)***Adopted*** Voice Vote
[H] Committee Amendment No 1 ***Adopted*** Voice Vote
Amendment Report for Senate Bill No. 2434

----- Additional Information -----

Senate Committee: Finance
House Committee: Ways and Means

Principal Author: Harkins

Title: AN ACT TO CREATE THE SALES TAX TAXATION OF CONSTRUCTION-RELATED ACTIVITIES STUDY COMMITTEE TO EXAMINE AND DEVELOP

RECOMMENDATIONS FOR THE TAXATION OF CERTAIN CONSTRUCTION-RELATED ACTIVITIES IN MISSISSIPPI; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Harkins To: Finance

SENATE BILL NO. 2434
(As Sent to Governor)

AN ACT TO CREATE THE SALES TAX TAXATION OF CONSTRUCTION-RELATED ACTIVITIES STUDY COMMITTEE TO EXAMINE AND DEVELOP RECOMMENDATIONS FOR THE TAXATION OF CERTAIN CONSTRUCTION-RELATED ACTIVITIES IN MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) There is hereby created the Sales Tax Taxation of Construction-Related Activities Study Committee to examine and develop recommendations regarding the taxation of certain construction-related activities in Mississippi.

(2) The committee shall, at a minimum, study and report to the 2021 Regular Session of the Legislature the committee's recommendation for which construction-related businesses should be subject to sales taxation in Mississippi and the committee's recommendation as to the manner in which construction-related activities should be taxed in Mississippi. The committee shall provide the provisions of the current Mississippi law that will need to be amended to adopt the measures described in this section and any other measures recommended by the committee.

(3) The committee shall be composed of the following members:

(a) The Commissioner of the Mississippi Department of Revenue, or his/her designee;

(b) A member of the Mississippi State Senate appointed by the Lieutenant Governor;

(c) A member of the Mississippi House of Representatives appointed by the Speaker of the House;

(d) The Chairman of the Senate Finance Committee;

(e) The Chairman of the House Ways and Means Committee;

(f) The Executive Director of the Mississippi Associated General Contractors of Mississippi, or his/her designee;

(g) The President of the Associated Builders and Contractors Mississippi, or his/her designee;

(h) The President of the Homebuilders Association of Mississippi, or his/her designee;

(i) The Executive Director of the Subcontractor and Supplier Alliance of Mississippi, or his/her designee;

(j) The Executive Director of the Mississippi Chapter of the American Subcontractors Association, Inc., or his/her designee; and

(k) An appointee of the Governor.

(4) Appointments to the study committee shall be made within thirty (30) days of the effective date of this act. At the first

meeting, the committee shall elect from among its membership a chairman, a vice chairman and any other officers determined to be necessary, and shall adopt rules for transacting business and keeping records.

(5) A majority of the members of the study committee shall constitute a quorum. In the adoption of rules, resolutions and reports, and in the election of a chairman, vice chairman and any other officers determined to be necessary, an affirmative vote of a majority of the members present shall be required.

(6) The Department of Revenue shall provide the staff and other support necessary for the study committee to perform its duties.

(7) To effectuate the purposes of this act, any department, division, board, bureau, committee, institution or agency of the state, or any political subdivision thereof, shall, at the request of the chairman of the study committee, provide the facilities, assistance, information and data needed to enable the study committee to carry out its duties.

(8) Upon its report to the 2021 Regular Session of the Legislature, the study committee shall be dissolved.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2467

Description: Weight limits; allow certain vehicles fueled by compressed or liquefied natural gas to exceed on interstate highways.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(S) Referred To Highways and Transportation
2	03/03	(S) Title Suff Do Pass Comm Sub
3	03/10	(S) Committee Substitute Adopted
4	03/10	(S) Passed {Vote}
5	03/11	(S) Transmitted To House
6	03/25	(H) Referred To Transportation
7	06/04	(H) Title Suff Do Pass
8	06/16	(H) Passed {Vote}
9	06/17	(H) Returned For Enrolling
10	06/19	(S) Enrolled Bill Signed
11	06/19	(H) Enrolled Bill Signed
12	06/25	Approved by Governor

Code Section: A 063-0005-0033, BF 063-0005-0027, BF 063-0005-0029, BF 063-0005-0031

----- Additional Information -----

Senate Committee: Highways and Transportation
House Committee: Transportation

Principal Author: Fillingane

Title: AN ACT TO AMEND SECTION 63-5-33, MISSISSIPPI CODE OF 1972, TO PERMIT CERTAIN VEHICLES OPERATED BY AN ENGINE FUELED PRIMARILY BY COMPRESSED OR LIQUEFIED NATURAL GAS TO EXCEED THE GROSS VEHICLE WEIGHT LIMITATIONS WHEN OPERATING ON INTERSTATE HIGHWAYS; TO BRING FORWARD SECTIONS 63-5-27, 63-5-29 AND 63-5-31, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Fillingane

To: Highways and Transportation

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2467

AN ACT TO AMEND SECTION 63-5-33, MISSISSIPPI CODE OF 1972, TO PERMIT CERTAIN VEHICLES OPERATED BY AN ENGINE FUELED PRIMARILY BY COMPRESSED OR LIQUEFIED NATURAL GAS TO EXCEED THE GROSS VEHICLE WEIGHT LIMITATIONS WHEN OPERATING ON INTERSTATE HIGHWAYS; TO BRING FORWARD SECTIONS 63-5-27, 63-5-29 AND 63-5-31, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-5-33, Mississippi Code of 1972, is amended as follows:

63-5-33. (1) Subject to the limitations imposed on wheel and axle loads by Section 63-5-27, and to the further limitations hereinafter specified, the total combined weight (vehicles plus load) on any group of axles of a vehicle or a combination of vehicles shall not exceed the value given in the following table (Table III) corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot, on those highways or parts of highways designated by the Mississippi Transportation Commission as being capable of carrying the maximum load limits and, in addition thereto, such other

highways or parts of highways found by the commission to be suitable to carry the maximum load limits from an engineering standpoint, and so designated as such by order of the commission entered upon its minutes and published once each week for three (3) consecutive weeks in a daily newspaper published in this state and having a general circulation therein. The maximum total combined weight carried on any group of two (2) or more consecutive axles shall be determined by the formula contained in the Federal Weight Law enacted January 4, 1975, as follows: W=500 (LN/N-1+12N+36) where W=maximum weight in pounds carried on any group of two (2) or more axles computed to the nearest five hundred (500) pounds, L=distance in feet between the extremes of any group of two (2) or more consecutive axles, and N=number of axles in any group under consideration.

TABLE III

DISTANCE IN FEET BETWEEN THE EXTREMES OF ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES	MAXIMUM LOAD IN POUNDS CARRIED ON ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES					
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
4	34,000					

5	34,000						
6	34,000		Axle groups in				
7	34,000						
8 and less	34,000	34,000	these spacings				
More than 8	38,000	42,000					
9	39,000	42,500					
10	40,000	43,500	impractical				
11		44,000					
12		45,000	50,000				
13		45,500	50,500				
14		46,500	51,500				
15		47,000	52,000				
16		48,000	52,500	58,000			
17		48,500	53,500	58,500			
18		49,500	54,000	59,000			
19		50,000	54,500	60,000			
20		51,000	55,500	60,500	66,000		
21		51,500	56,000	61,000	66,500		
22		52,500	56,500	61,500	67,000		
23		53,000	57,500	62,500	68,000		
24		54,000	58,000	63,000	68,500	74,000	
25		54,500	58,500	63,500	69,000	74,500	

71	26	55,500	59,500	64,000	69,500	75,000
72	27	56,000	60,000	65,000	70,000	75,500
73	28	57,000	60,500	65,500	71,000	76,500
74	29	57,500	61,500	66,000	71,500	77,000
75	30	58,500	62,000	66,500	72,000	77,500
76	31	59,000	62,500	67,500	72,500	78,000
77	32	60,000	63,500	68,000	73,000	78,500
78	33		64,000	68,500	74,000	79,000
79	34		64,500	69,000	74,500	80,000
80	35		65,500	70,000	75,000	80,000
81	36		66,000	70,500	75,500	80,000
82	37		66,500	71,000	76,000	80,000
83	38		67,500	71,500	77,000	80,000
84	39		68,000	72,500	77,500	80,000
85	40		68,500	73,000	78,000	80,000
86	41		69,500	73,500	78,500	80,000
87	42		70,000	74,000	79,000	80,000
88	43		70,500	75,000	80,000	80,000
89	44		71,500	75,500	80,000	80,000
90	45		72,000	76,000	80,000	80,000
91	46		72,500	76,500	80,000	80,000
92	47		73,500	77,500	80,000	80,000
93	48		74,000	78,000	80,000	80,000
94	49		74,500	78,500	80,000	80,000
95	50		75,500	79,000	80,000	80,000

51	76,000	80,000	80,000	80,000
52	76,500	80,000	80,000	80,000
53	77,500	80,000	80,000	80,000
54	78,000	80,000	80,000	80,000
55	78,500	80,000	80,000	80,000
56	79,500	80,000	80,000	80,000
57	80,000	80,000	80,000	80,000

(2) Moreover, in addition to the per axle weight limitations specified by Section 63-5-27, two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing that the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more, except that, until September 1, 1989, the axle distance for tank trailers, dump trailers and ocean transport container haulers may be thirty (30) feet or more. Such overall gross weight may not exceed eighty thousand (80,000) pounds, except as provided by this section.

(3) Notwithstanding the provisions of Section 63-5-27 and/or Section 63-5-29 to the contrary, vehicles hauling products in the manner set forth in this subsection, whether or not such vehicles are operating with a harvest permit, shall be allowed a gross weight of not to exceed forty thousand (40,000) pounds on any tandem. Vehicles operating without a harvest permit shall be allowed a tolerance not to exceed five percent (5%) above their authorized gross vehicle weight, tandem or axle weight; except

that the maximum gross vehicle weight of any such vehicle shall not exceed eighty thousand (80,000) pounds plus a tolerance thereon of not more than two percent (2%). Vehicles operating without a harvest permit loading at a point of origin having scales available for weighing the vehicle shall not be eligible for any tolerance over the gross weight limit of eighty thousand (80,000) pounds. Vehicles operating with a harvest permit shall be allowed a tolerance not to exceed ten percent (10%) above their authorized tandem or axle weight, but the maximum gross vehicle weight of any such vehicle shall not exceed eighty-four thousand (84,000) pounds. However, neither the increased weights in this subsection nor any tolerance shall be allowed on federal interstate highways or on other highways where a tolerance is specifically prohibited by the Transportation Commission, the county board of supervisors or the municipal governing authorities as provided for in Section 63-5-27. The tolerance allowed by this subsection shall only apply to the operation of vehicles from the point of loading to the point of unloading for processing, and to the operation of vehicles hauling sand, gravel, woodchips, wood shavings, sawdust, fill dirt, and agricultural products, and products for recycling or materials for the construction or repair of highways. The range of such operation shall not exceed a radius of one hundred (100) miles except where the products are being transported for processing within this state.

(4) Notwithstanding the provisions of Section 63-5-27 and/or Section 63-5-29 to the contrary, vehicles hauling prepackaged products, unloaded at a state port or to be loaded at a state port, which are containerized in such a manner as to make subdivision thereof impractical shall be allowed a gross weight of not to exceed forty thousand (40,000) pounds on any tandem, and a tolerance not to exceed ten percent (10%) above their authorized gross weight, tandem or axle weight; except that the maximum weight of any vehicle shall not exceed eighty thousand (80,000) pounds plus a tolerance thereon of not more than two percent (2%); however, neither the increased weights in this subsection nor any tolerance shall be allowed on federal interstate highways or on other highways where a tolerance is specifically prohibited by the Transportation Commission, the county board of supervisors or the municipal governing authorities as provided for in Section 63-5-27.

(5) (a) Vehicles for which a harvest permit has been issued pursuant to Section 27-19-81(4) shall be allowed a gross vehicle weight not to exceed eighty-four thousand (84,000) pounds. However, the board of supervisors of any county and the governing authorities of any municipality may designate the roads, streets and highways under their respective jurisdiction on and along which vehicles for which a harvest permit has been issued may travel. This subsection shall not apply to the federal interstate system.

(b) Any owner or operator who has been issued a harvest permit and who wishes to operate a vehicle on the roads, streets or highways under the jurisdiction of a county or municipality at a gross vehicle weight greater than the weight allowed by law or greater than the maximum weight established for such roads, streets or highways by the board of supervisors or municipal governing authorities, shall notify, in writing, the board of supervisors or the governing authorities, as the case may be, before operating such vehicle on the roads, streets or highways of such county or municipality. In his notice, the permit holder shall identify the routes over which he intends to operate vehicles for which the permit has been issued and the dates or time period during which he will be operating such vehicles. The board of supervisors or the governing authorities, as the case may be, shall have two (2) working days to respond in writing to the permit holder to notify the permit holder of the routes on and along which the permit holder may operate vehicles for which a harvest permit has been issued. Failure of the board of supervisors or the governing authorities timely to notify the permit holder and to designate the routes on and along which the permit holder may operate shall be considered as authorizing the permit holder to operate on any of the roads, streets or highways of the county or municipality in accordance with the authority granted to the permit holder by the harvest permit.

(c) Any time a timber deed is filed with the chancery clerk, the grantee, at that time, may make a written request of the board of supervisors of the county or the governing authorities of the municipality, as the case may be, for the purpose of providing to the grantee, within three (3) working days of the filing of the request, a designated and approved route over the roads, streets or highways under the jurisdiction of the county or city, as the case may be, that the grantee may travel for the purpose of transporting harvested timber. Upon providing such route designation, the county or city, as the case may be, shall also provide to the grantee a map designating the approved route. An approved route designation provided to a grantee under the provisions of this paragraph shall be valid for a period of six (6) months from its date of issue. The permit authorized to be issued under paragraph (b) of this subsection shall not be required for any person who obtains a permit issued under this paragraph.

(d) This subsection (5) shall stand repealed from and after July 1, 2022.

(6) Nothing in this section or subsections (1) through (4) of Section 63-5-27 shall be construed to deny the operation of any vehicle or combination of vehicles that could be lawfully operated upon the interstate highway system of this state on January 4, 1975.

(7) (a) Notwithstanding any provisions of Section 63-5-27 to the contrary, a vehicle that is operated by an engine fueled primarily by compressed or liquefied natural gas may exceed the gross vehicle weight limits by an amount, not to exceed a maximum of two thousand (2,000) pounds, that is equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by the vehicle and the weight of a comparable diesel tank and fueling system.

(b) The weight exception provided in this subsection shall apply to all interstate highways per the exemption expressly permitted by 23 USC Section 127.

SECTION 2. Section 63-5-27, Mississippi Code of 1972, is brought forward as follows:

63-5-27. (1) Subject to the maximum gross single axle or tandem axle weights hereinafter specified, the gross single or tandem axle weights shall not exceed five hundred fifty (550) pounds per inch of tire width. The gross weight on any single or tandem axle thus derived shall be subject to a tolerance not in excess of five hundred (500) pounds provided that the total allowable gross weight of the single or tandem axle shall not exceed the maximum limitations allowed hereinafter.

(2) The gross weight imposed on the highway by the wheels of any one (1) single axle of a vehicle shall not exceed twenty thousand (20,000) pounds exclusive of the tolerance provided in Section 63-5-33. A single axle shall be defined as an assembly of

two (2) or more wheels whose centers are in one (1) transverse vertical plane or may be included between two (2) parallel transverse vertical planes forty (40) inches apart extending across the full width of the vehicle.

(3) The gross weight imposed on the highway by any tandem axle shall not exceed thirty-four thousand (34,000) pounds exclusive of the tolerance provided in Section 63-5-33. A tandem axle shall be defined as any two (2) or more consecutive axles whose centers are more than forty (40) inches but not more than ninety-six (96) inches apart. No one (1) axle of any such group of two (2) or more consecutive axles shall exceed the weight permitted for a single axle.

(4) (a) Vehicles designed and especially constructed to transport concrete products and which are not available for purchase in sizes and capacities to fully comply with the road and bridge weight laws of the State of Mississippi shall not be made to conform to the axle spacing requirements or axle or tire loadings of this section or to the total combined weights as set out in Section 63-5-33 in Table III, provided (i) that such vehicles shall be limited to a gross weight of sixty thousand (60,000) pounds; (ii) that such vehicles shall only be operated within fifty (50) miles of their home base; (iii) that any such vehicles shall be limited to a maximum load of the rated capacity of the vehicle; (iv) that all such vehicles shall have at least three (3) axles; and (v) that all vehicles with only three (3)

axles shall have all wheels brake-equipped. Any two (2) or more axles close enough to be considered an axle group shall be suspended by an equalizing system and be spaced a minimum of four (4) feet apart in order to be eligible for the maximum load as provided in this subsection. It shall be a violation if vehicles to which this subsection applies travel upon any federal interstate highway or upon any roads or bridges designated and posted as incapable of carrying such loads by the Transportation Commission, a board of supervisors, or municipal governing authorities as provided in subsection (5) or (6) of this section.

(b) Vehicles designed and especially constructed to transport raw cotton from harvest to the cotton gin shall not be made to conform to the axle spacing or axle or tire loadings of this section. However, such vehicles (i) shall be limited to a gross weight of sixty thousand (60,000) pounds; (ii) may be operated only within a fifty-mile radius of their home base or their contractual customer; (iii) shall be limited to a maximum load of the rated capacity of that vehicle; (iv) shall have all wheels brake equipped; and (v) are prohibited from traveling upon any federal interstate highway or upon any roads or bridges designated and posted as incapable of carrying such loads by the Mississippi Department of Transportation, a board of supervisors or municipal governing authorities as provided in subsection (5) or (6) of this section.

(c) Vehicles designed and especially constructed to collect and transport solid waste and which are not available for purchase in sizes and capacities to fully comply with the road and bridge weight laws of the State of Mississippi, shall not be made to conform to the axle spacing or tire loadings of this section. However, such vehicles (i) shall be limited to a gross weight of sixty thousand (60,000) pounds; (ii) may be operated only within a fifty-mile radius of their home base or their contractual customer; (iii) shall be limited to a maximum load of the rated capacity of that vehicle; (iv) shall have all wheels brake-equipped; and (v) are prohibited from traveling upon any federal interstate highway or upon any roads or bridges designated and posted as incapable of carrying such loads by the Mississippi Department of Transportation, a board of supervisors or the governing authorities of a municipality as provided in subsection (5) or (6) of this section.

(d) The rear axle of trailer mounted knuckle boom log loaders shall be exempt from the tire loading limitation provided for in subsection (3) of this section; provided, however, that the gross weight imposed on the highway by such an axle shall not exceed forty-one thousand (41,000) pounds.

(5) The board of supervisors of any county or the governing authorities of any municipality, by appropriate resolution, may impose limitations more restrictive than those permitted in this

section upon the county highways of such county or the streets of such municipality.

(6) The Mississippi Department of Transportation, for cause, may post or limit any road or bridge to weights less than those permitted by this section.

SECTION 3. Section 63-5-29, Mississippi Code of 1972, is brought forward as follows:

63-5-29. On all highways of the State of Mississippi except those referred to in Sections 63-5-31 and 63-5-33, and subject to the limitations imposed on wheel and axle loads by Section 63-5-27 and to the further limitations hereinafter specified, the total combined weight (vehicles plus load) on any group of axles shall not exceed the value given in the following table (Table I), corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot:

Distance in Feet Between the Extreme of Any Group of Axles	Maximum Load in Pounds Carried on any Group of Axles
4	28,650
5	29,650
6	30,640
7	31,630
8	32,610
9	33,580
10	34,550
11	35,510

341	12	36,470
342	13	37,420
343	14	38,360
344	15	39,300
345	16	40,280
346	17	41,160
347	18	42,080
348	19	42,990
349	20	43,900
350	21	44,800
351	22	45,700
352	23	46,590
353	24	47,470
354	25	48,350
355	26	49,220
356	27	50,090
357	28	50,950
358	29	51,800
359	30	52,650
360	31	53,490
361	32	54,330
362	33	55,160
363	34	55,650
364	35	56,800
365	36 and greater	57,650 maximum

Moreover, in addition to the per axle weight limitation specified by Section 63-5-27, the maximum load carried on a combination of vehicles shall be subject to the following additional limitations: The maximum load carried on any group of two (2) axles shall not exceed twenty-four thousand (24,000) pounds in instances where one or more of such axles is a driving axle (that is, an axle turned by the vehicle's engine power).

(2) An axle group shall consist of any two (2) or more consecutive axles of any vehicle or combination of vehicles.

(3) Provided, however, that, subject to the limitations imposed on:

(a) Wheel, axle loads, spacing and weight by Sections 63-5-27 and 63-5-33, and

(b) Weight limitations on highways and bridges by Section 65-1-45, Mississippi Code of 1972, any product produced on or distributed from a location on any highway within or without the State of Mississippi may be transported from such place of production or location of distribution by the nearest route toward its destination on such highway or highways to a point where such highway intersects a highway previously found or hereafter found by the commission to be suitable to carry the maximum load limits pursuant to Sections 63-5-33 and 63-5-35; and provided further, that any goods, materials, and equipment actually used in the supply of an activity of producing, manufacturing or distributing products on any such highway within the State of Mississippi may

be transported on such highway to the site of such manufacture, production or distribution. However, any penalty assessed against a vehicle operating under the provisions of this paragraph (3)(b) shall be calculated according to the maximum weight which that particular vehicle is legally permitted to transport and not the maximum gross weight limit established for that highway.

Nothing herein contained shall be construed to permit movements of weights in excess of those provided for in this section (63-5-29) over a route or section thereof for the purpose of a shortcut between two (2) highways found by the commission to be suitable to carry the maximum load limits pursuant to Sections 63-5-33 and 63-5-35 or any other purpose not consistent with the aforementioned provisions.

Nothing in Sections 63-5-29, and 63-5-34, shall be construed to imply any general variation from the maximum weight limitations designated by the Mississippi Department of Transportation other than specified in Sections 63-5-29 and 63-5-34.

SECTION 4. Section 63-5-31, Mississippi Code of 1972, is brought forward as follows:

63-5-31. Subject to the limitations imposed on wheel and axle loads by Section 63-5-27, and to the further limitations hereinafter specified, the total combined weight (vehicles plus load) on any group of axles shall not exceed the value given in the following table (Table II) corresponding to the distance in feet between the extreme axles of the group, measured

longitudinally to the nearest foot, on those highways or parts of highways found by the Mississippi Transportation Commission to be suitable to carry such increased load limits from an engineering standpoint, and so designated as such by order of said commission entered on its minutes and published once each week for three successive weeks in a daily newspaper of general circulation in this state:

TABLE II

Distance in Feet Between the Extreme of Any Group of Axles	Maximum Load in Pounds Carried on Any Group of Axles
4	32,000
5	32,000
6	32,000
7	32,000
8	32,610
9	33,779
10	34,942
11	36,097
12	37,246
13	38,387
14	39,522
15	40,649
16	41,770
17	42,883
18	43,990

19	45,089
20	46,182
21	47,267
22	48,346
23	49,417
24	50,482
25	51,539
26	52,590
27	53,633
28	54,670
29	55,699
30	56,722
31	57,737
32	58,746
33	59,747
34	60,742
35	61,729
36	62,710
37	63,683
38 and greater	64,650 maximum

Moreover, in addition to the per axle weight limitations specified by Section 63-5-27, the maximum load carried on a combination of vehicles shall be subject to the following additional limitations: The maximum load carried on any group of two (2) axles shall not exceed twenty-seven thousand (27,000)

pounds in instances where one or more of such axles is a driving axle (that is, an axle turned by the vehicle's engine power).

An axle group shall consist of any two (2) or more consecutive axles of any vehicle or combination of vehicles.

SECTION 5. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2486

Description: Medicaid; authorize extension of Management Information System and Support contracts.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/14	(S) Referred To Medicaid
2	02/26	(S) Title Suff Do Pass
3	03/10	(S) Passed {Vote}
4	03/11	(S) Transmitted To House
5	03/25	(H) Referred To Medicaid; Appropriations
6	05/28	(H) DR - TSDP: ME To AP
7	06/02	(H) DR - TSDP: AP To ME
8	06/02	(H) Title Suff Do Pass
9	06/16	(H) Passed {Vote}
10	06/17	(H) Returned For Enrolling
11	06/19	(S) Enrolled Bill Signed
12	06/19	(H) Enrolled Bill Signed
13	06/25	Approved by Governor

Code Section: A 043-0013-0121

----- Additional Information -----

Senate Committee: Medicaid
House Committee: Medicaid, Appropriations

Principal Author: Blackwell

Title: AN ACT TO AMEND SECTION 43-13-121, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DIVISION OF MEDICAID TO EXTEND CERTAIN MANAGEMENT INFORMATION SYSTEM AND SUPPORT CONTRACTS FOR A PERIOD NOT EXCEEDING 2 YEARS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Blackwell To: Medicaid

SENATE BILL NO. 2486

AN ACT TO AMEND SECTION 43-13-121, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DIVISION OF MEDICAID TO EXTEND CERTAIN MANAGEMENT INFORMATION SYSTEM AND SUPPORT CONTRACTS FOR A PERIOD NOT EXCEEDING 2 YEARS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-13-121, Mississippi Code of 1972, is amended as follows:

43-13-121. (1) The division shall administer the Medicaid program under the provisions of this article, and may do the following:

(a) Adopt and promulgate reasonable rules, regulations and standards, with approval of the Governor, and in accordance with the Administrative Procedures Law, Section 25-43-1.101 et seq.:

(i) Establishing methods and procedures as may be necessary for the proper and efficient administration of this article;

(ii) Providing Medicaid to all qualified recipients under the provisions of this article as the division may determine and within the limits of appropriated funds;

(iii) Establishing reasonable fees, charges and rates for medical services and drugs; in doing so, the division shall fix all of those fees, charges and rates at the minimum levels absolutely necessary to provide the medical assistance authorized by this article, and shall not change any of those fees, charges or rates except as may be authorized in Section 43-13-117;

(iv) Providing for fair and impartial hearings;

(v) Providing safeguards for preserving the confidentiality of records; and

(vi) For detecting and processing fraudulent practices and abuses of the program;

(b) Receive and expend state, federal and other funds in accordance with court judgments or settlements and agreements between the State of Mississippi and the federal government, the rules and regulations promulgated by the division, with the approval of the Governor, and within the limitations and restrictions of this article and within the limits of funds available for that purpose;

(c) Subject to the limits imposed by this article, to submit a Medicaid plan to the United States Department of Health and Human Services for approval under the provisions of the

federal Social Security Act, to act for the state in making negotiations relative to the submission and approval of that plan, to make such arrangements, not inconsistent with the law, as may be required by or under federal law to obtain and retain that approval and to secure for the state the benefits of the provisions of that law.

No agreements, specifically including the general plan for the operation of the Medicaid program in this state, shall be made by and between the division and the United States Department of Health and Human Services unless the Attorney General of the State of Mississippi has reviewed the agreements, specifically including the operational plan, and has certified in writing to the Governor and to the executive director of the division that the agreements, including the plan of operation, have been drawn strictly in accordance with the terms and requirements of this article;

(d) In accordance with the purposes and intent of this article and in compliance with its provisions, provide for aged persons otherwise eligible for the benefits provided under Title XVIII of the federal Social Security Act by expenditure of funds available for those purposes;

(e) To make reports to the United States Department of Health and Human Services as from time to time may be required by that federal department and to the Mississippi Legislature as provided in this section;

(f) Define and determine the scope, duration and amount of Medicaid that may be provided in accordance with this article and establish priorities therefor in conformity with this article;

(g) Cooperate and contract with other state agencies for the purpose of coordinating Medicaid provided under this article and eliminating duplication and inefficiency in the Medicaid program;

(h) Adopt and use an official seal of the division;

(i) Sue in its own name on behalf of the State of Mississippi and employ legal counsel on a contingency basis with the approval of the Attorney General;

(j) To recover any and all payments incorrectly made by the division to a recipient or provider from the recipient or provider receiving the payments. The division shall be authorized to collect any overpayments to providers sixty (60) days after the conclusion of any administrative appeal unless the matter is appealed to a court of proper jurisdiction and bond is posted. Any appeal filed after July 1, 2015, shall be to the Chancery Court of the First Judicial District of Hinds County, Mississippi, within sixty (60) days after the date that the division has notified the provider by certified mail sent to the proper address of the provider on file with the division and the provider has signed for the certified mail notice, or sixty (60) days after the date of the final decision if the provider does not sign for the certified mail notice. To recover those payments, the division

may use the following methods, in addition to any other methods available to the division:

(i) The division shall report to the Department of Revenue the name of any current or former Medicaid recipient who has received medical services rendered during a period of established Medicaid ineligibility and who has not reimbursed the division for the related medical service payment(s). The Department of Revenue shall withhold from the state tax refund of the individual, and pay to the division, the amount of the payment(s) for medical services rendered to the ineligible individual that have not been reimbursed to the division for the related medical service payment(s).

(ii) The division shall report to the Department of Revenue the name of any Medicaid provider to whom payments were incorrectly made that the division has not been able to recover by other methods available to the division. The Department of Revenue shall withhold from the state tax refund of the provider, and pay to the division, the amount of the payments that were incorrectly made to the provider that have not been recovered by other available methods;

(k) To recover any and all payments by the division fraudulently obtained by a recipient or provider. Additionally, if recovery of any payments fraudulently obtained by a recipient or provider is made in any court, then, upon motion of the

Governor, the judge of the court may award twice the payments recovered as damages;

(l) Have full, complete and plenary power and authority to conduct such investigations as it may deem necessary and requisite of alleged or suspected violations or abuses of the provisions of this article or of the regulations adopted under this article, including, but not limited to, fraudulent or unlawful act or deed by applicants for Medicaid or other benefits, or payments made to any person, firm or corporation under the terms, conditions and authority of this article, to suspend or disqualify any provider of services, applicant or recipient for gross abuse, fraudulent or unlawful acts for such periods, including permanently, and under such conditions as the division deems proper and just, including the imposition of a legal rate of interest on the amount improperly or incorrectly paid. Recipients who are found to have misused or abused Medicaid benefits may be locked into one (1) physician and/or one (1) pharmacy of the recipient's choice for a reasonable amount of time in order to educate and promote appropriate use of medical services, in accordance with federal regulations. If an administrative hearing becomes necessary, the division may, if the provider does not succeed in his or her defense, tax the costs of the administrative hearing, including the costs of the court reporter or stenographer and transcript, to the provider. The convictions of a recipient or a provider in a state or federal court for abuse, fraudulent or

unlawful acts under this chapter shall constitute an automatic disqualification of the recipient or automatic disqualification of the provider from participation under the Medicaid program.

A conviction, for the purposes of this chapter, shall include a judgment entered on a plea of nolo contendere or a nonadjudicated guilty plea and shall have the same force as a judgment entered pursuant to a guilty plea or a conviction following trial. A certified copy of the judgment of the court of competent jurisdiction of the conviction shall constitute prima facie evidence of the conviction for disqualification purposes;

(m) Establish and provide such methods of administration as may be necessary for the proper and efficient operation of the Medicaid program, fully utilizing computer equipment as may be necessary to oversee and control all current expenditures for purposes of this article, and to closely monitor and supervise all recipient payments and vendors rendering services under this article. Notwithstanding any other provision of state law, the division is authorized to enter into a ten-year contract(s) with a vendor(s) to provide services described in this paragraph (m). Notwithstanding any provision of law to the contrary, the division is authorized to extend its Medicaid Management Information Systems, including all related components and services, and Decision Support System, including all related components and services, contracts * * * in effect on June 30,

2020, for a period not to exceed * * * two (2) years without complying with * * * state procurement regulations;

(n) To cooperate and contract with the federal government for the purpose of providing Medicaid to Vietnamese and Cambodian refugees, under the provisions of Public Law 94-23 and Public Law 94-24, including any amendments to those laws, only to the extent that the Medicaid assistance and the administrative cost related thereto are one hundred percent (100%) reimbursable by the federal government. For the purposes of Section 43-13-117, persons receiving Medicaid under Public Law 94-23 and Public Law 94-24, including any amendments to those laws, shall not be considered a new group or category of recipient; and

(o) The division shall impose penalties upon Medicaid only, Title XIX participating long-term care facilities found to be in noncompliance with division and certification standards in accordance with federal and state regulations, including interest at the same rate calculated by the United States Department of Health and Human Services and/or the Centers for Medicare and Medicaid Services (CMS) under federal regulations.

(2) The division also shall exercise such additional powers and perform such other duties as may be conferred upon the division by act of the Legislature.

(3) The division, and the State Department of Health as the agency for licensure of health care facilities and certification and inspection for the Medicaid and/or Medicare programs, shall

contract for or otherwise provide for the consolidation of on-site inspections of health care facilities that are necessitated by the respective programs and functions of the division and the department.

(4) The division and its hearing officers shall have power to preserve and enforce order during hearings; to issue subpoenas for, to administer oaths to and to compel the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things conformable to law that may be necessary to enable them effectively to discharge the duties of their office. In compelling the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence, or the taking of depositions, as authorized by this section, the division or its hearing officers may designate an individual employed by the division or some other suitable person to execute and return that process, whose action in executing and returning that process shall be as lawful as if done by the sheriff or some other proper officer authorized to execute and return process in the county where the witness may reside. In carrying out the investigatory powers under the provisions of this article, the executive director or other designated person or persons may examine, obtain, copy or reproduce the books, papers, documents, medical charts,

prescriptions and other records relating to medical care and services furnished by the provider to a recipient or designated recipients of Medicaid services under investigation. In the absence of the voluntary submission of the books, papers, documents, medical charts, prescriptions and other records, the Governor, the executive director, or other designated person may issue and serve subpoenas instantly upon the provider, his or her agent, servant or employee for the production of the books, papers, documents, medical charts, prescriptions or other records during an audit or investigation of the provider. If any provider or his or her agent, servant or employee refuses to produce the records after being duly subpoenaed, the executive director may certify those facts and institute contempt proceedings in the manner, time and place as authorized by law for administrative proceedings. As an additional remedy, the division may recover all amounts paid to the provider covering the period of the audit or investigation, inclusive of a legal rate of interest and a reasonable attorney's fee and costs of court if suit becomes necessary. Division staff shall have immediate access to the provider's physical location, facilities, records, documents, books, and any other records relating to medical care and services rendered to recipients during regular business hours.

(5) If any person in proceedings before the division disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the

hearing, or neglects to produce, after having been ordered to do so, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the executive director shall certify the facts to any court having jurisdiction in the place in which it is sitting, and the court shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and if the evidence so warrants, punish that person in the same manner and to the same extent as for a contempt committed before the court, or commit that person upon the same condition as if the doing of the forbidden act had occurred with reference to the process of, or in the presence of, the court.

(6) In suspending or terminating any provider from participation in the Medicaid program, the division shall preclude the provider from submitting claims for payment, either personally or through any clinic, group, corporation or other association to the division or its fiscal agents for any services or supplies provided under the Medicaid program except for those services or supplies provided before the suspension or termination. No clinic, group, corporation or other association that is a provider of services shall submit claims for payment to the division or its fiscal agents for any services or supplies provided by a person within that organization who has been suspended or terminated from participation in the Medicaid program except for those services or

supplies provided before the suspension or termination. When this provision is violated by a provider of services that is a clinic, group, corporation or other association, the division may suspend or terminate that organization from participation. Suspension may be applied by the division to all known affiliates of a provider, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances. The violation, failure or inadequacy of performance may be imputed to a person with whom the provider is affiliated where that conduct was accomplished within the course of his or her official duty or was effectuated by him or her with the knowledge or approval of that person.

(7) The division may deny or revoke enrollment in the Medicaid program to a provider if any of the following are found to be applicable to the provider, his or her agent, a managing employee or any person having an ownership interest equal to five percent (5%) or greater in the provider:

(a) Failure to truthfully or fully disclose any and all information required, or the concealment of any and all information required, on a claim, a provider application or a provider agreement, or the making of a false or misleading statement to the division relative to the Medicaid program.

(b) Previous or current exclusion, suspension, termination from or the involuntary withdrawing from participation in the Medicaid program, any other state's Medicaid program,

Medicare or any other public or private health or health insurance program. If the division ascertains that a provider has been convicted of a felony under federal or state law for an offense that the division determines is detrimental to the best interest of the program or of Medicaid beneficiaries, the division may refuse to enter into an agreement with that provider, or may terminate or refuse to renew an existing agreement.

(c) Conviction under federal or state law of a criminal offense relating to the delivery of any goods, services or supplies, including the performance of management or administrative services relating to the delivery of the goods, services or supplies, under the Medicaid program, any other state's Medicaid program, Medicare or any other public or private health or health insurance program.

(d) Conviction under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services or supplies.

(e) Conviction under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(f) Conviction under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct.

(g) Conviction under federal or state law of a criminal offense punishable by imprisonment of a year or more that involves moral turpitude, or acts against the elderly, children or infirm.

(h) Conviction under federal or state law of a criminal offense in connection with the interference or obstruction of any investigation into any criminal offense listed in paragraphs (c) through (i) of this subsection.

(i) Sanction for a violation of federal or state laws or rules relative to the Medicaid program, any other state's Medicaid program, Medicare or any other public health care or health insurance program.

(j) Revocation of license or certification.

(k) Failure to pay recovery properly assessed or pursuant to an approved repayment schedule under the Medicaid program.

(l) Failure to meet any condition of enrollment.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2506

Description: Winona-Montgomery School Board of Trustees; revise membership.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(S) Referred To Education
2	02/27	(S) Title Suff Do Pass
3	03/05	(S) Passed {Vote}
4	03/06	(S) Transmitted To House
5	03/25	(H) Referred To Education
6	05/28	(H) Title Suff Do Pass
7	06/02	(H) Passed {Vote}
8	06/03	(H) Returned For Enrolling
9	06/04	(S) Enrolled Bill Signed
10	06/04	(H) Enrolled Bill Signed
11	06/11	Approved by Governor

Code Section: A 037-0007-0104.4

----- Additional Information -----

Senate Committee: Education
House Committee: Education

Principal Author: Chassaniol
Additional Authors: Jackson (11th)

Title: AN ACT TO AMEND SECTION 37-7-104.4, MISSISSIPPI CODE OF 1972, TO RECONSTITUTE THE MEMBERSHIP OF THE WINONA-MONTGOMERY SCHOOL DISTRICT BOARD OF TRUSTEES; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Chassaniol, Jackson (11th) To: Education

SENATE BILL NO. 2506

AN ACT TO AMEND SECTION 37-7-104.4, MISSISSIPPI CODE OF 1972, TO RECONSTITUTE THE MEMBERSHIP OF THE WINONA-MONTGOMERY SCHOOL DISTRICT BOARD OF TRUSTEES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-7-104.4, Mississippi Code of 1972, is amended as follows:

37-7-104.4. (1) In Montgomery County, Mississippi, in which are located, as of January 1, 2016, two (2) school districts, there shall be an administrative consolidation of all of those school districts in the county into one (1) new countywide municipal separate school district to be designated as Winona-Montgomery Consolidated School District which shall consist of the territory of the former Montgomery County School District and the Winona Municipal Separate School District, effective on July 1, 2018. At such time that the administrative consolidation becomes effective, the central administrative office of the Winona-Montgomery Consolidated School District shall be located in Winona, Mississippi.

(2) As soon as practicable, a financial advisor and/or other facilitator with school district experience may be assigned by the Mississippi Department of Education to oversee the budgeting and financial matters relating to the consolidation of the districts slated for consolidation. The financial advisor and/or facilitator may, at the discretion of the Mississippi Department of Education, continue duties for one (1) year after the consolidation to ensure that all financial matters are in place. All financial expenditures of districts that are closing must be approved by the financial advisor and/or facilitator. If the superintendent and/or school board approves expenditures outside of this approval, they shall be personally liable for the excess expenditures. The State Board of Education shall determine the compensation to be paid to the financial advisor and/or facilitator which shall be paid by the local school district to which the financial advisor and/or facilitator is assigned.

(3) (a) On or before September 1, 2017, the State Board of Education shall serve the local school board of the Winona Municipal Separate School District and the local school board of the Montgomery County School District with notice and instructions regarding the timetable for action to be taken to comply with the administrative consolidation required in this section.

(b) * * * The members of the Winona-Montgomery Consolidated School District Board of Trustees serving on July 1, 2020, shall continue to serve until January 1, 2021, when the

membership shall be reconstituted as follows: On the first Tuesday after the first Monday in November 2020, a special election shall be held in Montgomery County for the purpose of electing a new board of trustees of such district, which shall be elected from the Supervisors Districts of Montgomery County. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at special elections as vacancies occur for terms of five (5) years each. All members shall reside in the supervisors district which the member represents, and shall take office on the first Monday of January following the date of their election. All trustees of said school district shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229, Mississippi Code of 1972. All vacancies which may occur during a term shall be filled by appointment of the consolidated school district trustees from the qualified electors of the district in which the vacancy occurs. However, the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as a trustee is elected for

the full term then expiring and the person so elected to the unexpired term shall take office immediately. Any school board member of the former school districts residing in the proper territory shall be eligible for appointment or election to the new Board of Trustees for Winona-Montgomery Consolidated School District.

(c) Any school district affected by the required administrative consolidation in the county that does not voluntarily consolidate as ordered by the State Board of Education shall be administratively consolidated by the State Board of Education, to be effective immediately upon action of the State Board of Education. The State Board of Education shall promptly move on its own motion to administratively consolidate a school district which does not voluntarily consolidate in order to enable the affected school districts to reasonably accomplish the resulting administrative consolidation into one (1) consolidated school district by July 1 following the motion to consolidate. The affected school districts shall comply with any consolidation order issued by the State Board of Education.

(4) (a) On July 1, 2018, following the motion of the State Board of Education to consolidate school districts in Montgomery County, the Montgomery County School District shall be abolished. All real and personal property which is owned or titled in the name of the school district located in such former school district

shall be transferred to the Winona-Montgomery Consolidated School District as of July 1, 2018.

(b) The new board of trustees of the Winona-Montgomery Consolidated School District shall be responsible for establishing the contracts for operations, teachers, principals, clerical and administrative staff personnel for the 2018-2019 school year and each school year thereafter.

(c) The Superintendent of the Winona-Montgomery Consolidated School District shall be appointed by the board and is authorized to appoint an assistant superintendent, but in no instance shall the administrative leadership of the Winona-Montgomery Consolidated School District exceed three (3) assistant superintendents to be appointed by the Superintendent of the Winona-Montgomery Consolidated School District.

(d) It shall be the responsibility of the board of trustees to prepare and approve the budget of the respective new reorganized district, and the board of trustees may use staff from the former school district to prepare the budget. Any transfer of the assets, real or personal property of the Montgomery County School District mandated by this section shall be final and conclusive for the purposes of the transfer of property required by this section to effectuate the administrative consolidation.

(e) Any person or school district aggrieved by an order of the successor newly selected Board of Trustees of the Winona-Montgomery Consolidated School District pursuant to the

required administrative consolidation may appeal therefrom within ten (10) days from the date of the adjournment of the meeting at which such order is entered. The appeal shall be taken in the same manner as appeals are taken from judgments or decisions of the board of supervisors as provided in Section 11-51-75, the provisions of which shall be fully applicable to appeals taken hereunder. The Board of Trustees of the Winona-Montgomery Consolidated School District shall not pass upon or approve or disapprove any such order until the time for an appeal therefrom has expired, nor shall the board pass upon or approve or disapprove any such order from which an appeal is taken until said appeal has been finally determined.

(5) Nothing in this section shall be construed to require the closing of any school or school facility, unless the facility is an unneeded administrative office located within a school district which has been abolished under the provisions of this section. All administrative consolidations under this section shall be accomplished so as not to delay or in any manner negatively affect the desegregation of another school district in the county pursuant to court order.

(6) The State Board of Education shall promulgate rules and regulations to facilitate the administrative consolidation of the school districts in Montgomery County pursuant to the requirements of this section. Beginning with the insurance cafeteria plan year of November 1, 2018, the consolidated districts shall fall under

all insurance plans and policies elected by the Winona-Montgomery Consolidated School District, including the group term life insurance described in Section 25-15-9(7).

(7) The County Board of Education and the Superintendent of Education of the former Montgomery County School District and the local school board and Superintendent of Schools of the Winona Municipal Separate School District shall cooperate with the State Department of Education, as soon as practicable after July 1, 2016, for the planning and transition of programs, services and alignment of curriculum for the administratively consolidated school districts.

(8) It shall be the responsibility of the Board of Supervisors of Montgomery County to provide office, furnishing and utilities for the administrative Office of the Superintendent of the Winona-Montgomery Consolidated School District.

(9) One (1) year prior to the date of consolidation, a financial advisor and/or other facilitator with school district experience may be assigned by the Mississippi Department of Education to oversee the budgeting and financial matters relating to the consolidation of the districts slated for consolidation. The financial advisor and/or facilitator may, at the discretion of the Mississippi Department of Education, continue duties for one (1) year after the consolidation to ensure that all financial matters are in place. All financial expenditures of districts that are closing must be approved by the financial advisor and/or

facilitator. If the superintendent and/or school board approves expenditures outside of this approval, they shall be personally liable for the excess expenditures. The State Board of Education shall determine the compensation to be paid to the financial advisor and/or facilitator which shall be paid by the local school district.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2508

Description: Provisions of the Mississippi Critical Teacher Shortage Act of 1998; extend repealer on.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(S) Referred To Education
2	02/27	(S) Title Suff Do Pass Comm Sub
3	03/04	(S) Committee Substitute Adopted
4	03/04	(S) Passed {Vote}
5	03/05	(S) Transmitted To House
6	03/25	(H) Referred To Education
7	05/28	(H) Title Suff Do Pass
8	06/02	(H) Passed {Vote}
9	06/03	(H) Returned For Enrolling
10	06/04	(S) Enrolled Bill Signed
11	06/04	(H) Enrolled Bill Signed
12	06/11	Approved by Governor

Code Section: A 037-0159-0001, A 037-0159-0005, A 037-0159-0007, A 037-0159-0009, A 037-0159-0011, A 037-0159-0013, A 037-0159-0017

----- Additional Information -----

Senate Committee: Education
House Committee: Education

Principal Author: DeBar

Title: AN ACT TO AMEND SECTIONS 37-159-1, 37-159-5, 37-159-7, 37-159-9, 37-159-11, 37-159-13 AND 37-159-17, MISSISSIPPI CODE OF 1972, TO DELETE THE INDIVIDUAL AUTOMATIC REPEALERS ON THE PROVISIONS THAT CONSTITUTE THE "MISSISSIPPI CRITICAL TEACHER SHORTAGE ACT OF 1998"; TO CREATE NEW SECTION 37-159-19, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON SECTIONS 37-159-1 THROUGH 37-159-17; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) DeBar To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2508

AN ACT TO AMEND SECTIONS 37-159-1, 37-159-5, 37-159-7, 37-159-9, 37-159-11, 37-159-13 AND 37-159-17, MISSISSIPPI CODE OF 1972, TO DELETE THE INDIVIDUAL AUTOMATIC REPEALERS ON THE PROVISIONS THAT CONSTITUTE THE "MISSISSIPPI CRITICAL TEACHER SHORTAGE ACT OF 1998"; TO CREATE NEW SECTION 37-159-19, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON SECTIONS 37-159-1 THROUGH 37-159-17; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-159-1, Mississippi Code of 1972, is amended as follows:

37-159-1. This act [Laws of 1998, Chapter 544] shall be known and may be cited as the "Mississippi Critical Teacher Shortage Act of 1998."

* * *

SECTION 2. Section 37-159-5, Mississippi Code of 1972, is amended as follows:

37-159-5. The State Board of Education shall prescribe rules and regulations which, subject to available appropriations, allow for reimbursement to the state licensed teachers, from both in state and out of state, who enter into a contract for employment

in a school district situated within a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, for the expense of moving when the employment necessitates the relocation of the teacher to a different geographical area than that in which the teacher resides before entering into such contract. In order to be eligible for the reimbursement, the teacher must apply to the local district and the district must obtain the prior approval from the department for reimbursement before the relocation occurs. If the reimbursement is approved, the department shall provide funds to the school district to reimburse the teacher an amount not to exceed One Thousand Dollars ($1,000.00) for the documented actual expenses incurred in the course of relocating, including the expense of any professional moving company or persons employed to assist with the move, rented moving vehicles or equipment, mileage in the amount authorized for state employees under Section 25-3-41 if the teacher used his personal vehicle or vehicles for the move, meals and such other expenses associated with the relocation in accordance with the department's established rules and regulations. No teacher may be reimbursed for moving expenses under this section on more than one (1) occasion.

Nothing in this section shall be construed to require the actual residence to which the teacher relocates to be within the boundaries of the school district which has executed a contract

for employment with the teacher or within the boundaries of the area designated by the State Board of Education as the critical teacher shortage area in order for the teacher to be eligible for reimbursement for his moving expenses. However, teachers must relocate within the boundaries of the State of Mississippi.

* * *

SECTION 3. Section 37-159-7, Mississippi Code of 1972, is amended as follows:

37-159-7. The school board of any school district situated within a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, in its discretion, may reimburse persons who interview for employment as a licensed teacher with the district for the mileage and other actual expenses incurred in the course of travel to and from the interview by such persons at the rate authorized for county and municipal employees under Section 25-3-41. Any reimbursement by a school board under this section shall be paid from nonminimum education program funds.

* * *

SECTION 4. Section 37-159-9, Mississippi Code of 1972, is amended as follows:

37-159-9. (1) There is established the University Assisted Teacher Recruitment and Retention Grant Program within the State Department of Education. The purposes of the program shall be to attract additional qualified teachers to those geographical areas

of the state where there exists a critical shortage of teachers and to retain the qualified teachers already serving as licensed teachers in geographical critical teacher shortage areas by making available scholarships to persons working towards a Master of Education degree or an Educational Specialist degree at an institution of higher learning whose teacher education program is approved by the State Board of Education.

(2) Any institution of higher learning in the State of Mississippi which offers a Master of Education degree or an Educational Specialist degree may apply to the department for participation in the program. As part of the program, participating institutions shall collaborate with the Mississippi Teacher Center to identify, recruit and place teacher education graduates, from both within the state and out of state, in school districts situated within those areas of the state where there exists a critical shortage of teachers, as designated by the State Board of Education.

(3) The State Department of Education shall provide funds to participating institutions of higher learning for the purpose of awarding scholarships to qualified persons pursuing a Master of Education degree or an Educational Specialist degree at such institutions while rendering service to the state as a licensed teacher in a school district in a geographical area of the state where there exists a critical shortage of teachers, as approved by the State Board of Education. The financial scholarship shall be

applied to the total cost for tuition, books, materials and fees at the institution in which the student is enrolled, not to exceed an amount equal to the highest total cost of tuition, books, materials and fees assessed by a state institution of higher learning during that school year. Teachers who relocate within Mississippi from out of state in order to participate in the program shall be classified as residents of the state for tuition purposes.

(4) Students awarded financial scholarships under the University Assisted Teacher Recruitment and Retention Grant Program may receive such awards for a maximum of four (4) school years; however, the maximum number of awards which may be made shall not exceed the length of time required to complete the number of academic hours necessary to obtain a Master of Education degree or an Educational Specialist degree. Financial scholarships under the program shall not be based upon an applicant's eligibility for financial aid.

(5) Persons relocating to a geographical area of the state where there exists a critical shortage of teachers, as approved by the State Board of Education, to participate in the University Assisted Teacher Recruitment and Retention Grant Program shall be eligible for reimbursement for their moving expenses to the critical teacher shortage area from the State Board of Education. The State Board of Education shall promulgate rules and regulations necessary for the administration of the relocation

expense reimbursement component of the University Assisted Teacher Recruitment and Retention Grant Program.

(6) Subject to the availability of funds, the State Board of Education may provide for professional development and support services as may be necessary for the retention of teachers participating in the program in those geographical areas of the state where there exists a critical shortage of teachers.

(7) Any person participating in the program who fails to complete a program of study that will enable that person to obtain a Master of Education degree or Educational Specialist degree shall become liable immediately to the State Board of Education for the sum of all awards made to that person under the program, plus interest accruing at the current Stafford Loan rate at the time the person abrogates his participation in the program.

(8) As a condition for participation in the program, a teacher shall agree to employment as a licensed teacher in a school district located in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, for a period of not less than three (3) years, which shall include those years of service rendered while obtaining the Master of Education degree or Educational Specialist degree. However, for any person who obtained a Baccalaureate degree in education with a financial scholarship under the Critical Needs Teacher Scholarship Program and who entered the University Assisted Teacher Recruitment and Retention Grant

Program before rendering service as a teacher, the period of employment for the purposes of this subsection shall be two (2) years, in addition to the employment commitment required under the Critical Needs Teacher Scholarship Program. Service rendered by a participant as a licensed teacher in a school district in a geographical critical teacher shortage area before that teacher becomes a participant in the program may not be considered to fulfill the employment commitment required under this subsection. Any person failing to comply with this employment commitment in any required school year shall immediately be in breach of contract and become liable immediately to the State Department of Education for the sum of all scholarships awarded and relocation expenses granted to that person, less one-third (1/3) of the amount of that sum for each year that service was rendered, or for those persons whose required period of employment is two (2) years, less one-half (1/2) of the amount of that sum for each year that service was rendered, plus interest accruing at the current Stafford Loan rate at the time the breach occurs, except in the case of a deferral for cause by the State Board of Education when there is no employment position immediately available upon the teacher's obtaining of the Master of Education degree or Educational Specialist degree. After the period of such deferral, the person shall begin or resume the required teaching duties or shall become liable to the board under this subsection. If a claim for repayment under this subsection is placed in the hands

of an attorney for collection after default, then the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(9) All funds received by the State Department of Education from the repayment of scholarship awards and relocation expenses by program participants shall be deposited in the Mississippi Critical Teacher Shortage Fund.

(10) The State Board of Education shall promulgate rules and regulations necessary for the proper administration of the University Assisted Teacher Recruitment and Retention Grant Program.

* * *

SECTION 5. Section 37-159-11, Mississippi Code of 1972, is amended as follows:

37-159-11. (1) There is established the Mississippi Employer-Assisted Housing Teacher Program, which shall be a special home loan program for eligible licensed teachers who render service to the state in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education. The home loan program shall be administered by the State Department of Education in conjunction with the Federal National Mortgage Association (Fannie Mae). The department may contract with one or more public or private entities to provide assistance in implementing and administering the program. The State Board of Education shall adopt rules and

regulations regarding the implementation and administration of the program.

(2) Participation in the loan program shall be available to any licensed teacher who renders service in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education. Any person who receives a loan under the program shall be required to purchase a house and reside in a county in which the school district for which the teacher is rendering service, or any portion of the school district, is located. The maximum amount of a loan that may be made under the program to any person shall be Six Thousand Dollars ($6,000.00).

(3) Any loan made under the program to a person who actually renders service as a teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, shall be converted to an interest-free grant on the basis of one (1) year's service for one-third (1/3) of the amount of the loan. Any person who does not render three (3) years' service as a teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, shall be liable to the State Department of Education for one-third (1/3) of the amount of the loan for each year that he does not render such service, plus interest accruing at the current Stafford Loan rate at the time the person discontinues his service. If a claim for

repayment under this subsection is placed in the hands of an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(4) All funds received by the State Department of Education as repayment of loans by program participants shall be deposited in the Mississippi Critical Teacher Shortage Fund.

* * *

SECTION 6. Section 37-159-13, Mississippi Code of 1972, is amended as follows:

37-159-13. (1) There is established a pilot program to provide for the construction of rental housing units for teachers in the West Tallahatchie School District, which pilot program shall be administered by the State Department of Education. The department may contract with one or more public or private entities to provide assistance in implementing and administering the program. The State Board of Education shall adopt rules and regulations regarding the implementation and administration of the program.

(2) The West Tallahatchie School District shall receive proposals from developers for the construction of the rental housing units, and submit its recommendation to the State Department of Education about which developer should construct the units. The department shall make the final determination about the developer that will construct the units.

(3) After selection of the developer, the department shall loan the developer not more than Two Hundred Thousand Dollars ($200,000.00) for construction of the units. The interest rate on the loan shall be equal to one percent (1%) below the discount rate at the Federal Reserve Bank in the Federal Reserve district in which the school district is located, and the loan shall be repaid in not more than fifteen (15) years, as determined by the department. All funds received by the department as repayment of the principal and interest of the loan shall be deposited in the Mississippi Critical Teacher Shortage Fund. If a claim against the developer for repayment is placed in the hands of an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(4) The developer shall operate the rental housing units. For a period of ten (10) years or until such time as the loan to the developer is repaid, whichever is longer, the priority for residence in the units shall be given first to teachers employed by the school district, then to other licensed school district employees, and then to any other school district employees.

* * *

SECTION 7. Section 37-159-17, Mississippi Code of 1972, is amended as follows:

37-159-17. There is established in the State Treasury a special fund to be designated the "Mississippi Critical Teacher Shortage Fund," into which shall be deposited those funds

appropriated by the Legislature, and any other funds that may be made available, for the purpose of implementing the programs established under Sections 37-159-5, 37-9-77, 37-3-91 and 37-159-9 through 37-159-13. Money in the fund at the end of a fiscal year shall not lapse into the General Fund, and interest earned on any amounts deposited into the fund shall be credited to the special fund.

* * *

SECTION 8. The following shall be codified as Section 37-159-19, Mississippi Code of 1972:

37-159-19. Sections 37-159-1 through 37-159-17 shall stand repealed on July 1, 2021.

SECTION 9. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2509

Description: Failing school districts; extend repealer on.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(S) Referred To Education
2	02/19	(S) Title Suff Do Pass
3	03/04	(S) Passed {Vote}
4	03/05	(S) Transmitted To House
5	03/25	(H) Referred To Education
6	05/28	(H) Title Suff Do Pass
7	06/10	(H) Passed {Vote}
8	06/11	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 037-0017-0013

----- Additional Information -----

Senate Committee: Education
House Committee: Education

Principal Author: DeBar

Title: AN ACT TO AMEND SECTION 37-17-13, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE PROVISION AUTHORIZING THE STATE BOARD OF EDUCATION TO APPOINT A NEW FIVE-MEMBER BOARD FOR THE ADMINISTRATION OF A FAILING SCHOOL DISTRICT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) DeBar To: Education

SENATE BILL NO. 2509

AN ACT TO AMEND SECTION 37-17-13, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE PROVISION AUTHORIZING THE STATE BOARD OF EDUCATION TO APPOINT A NEW FIVE-MEMBER BOARD FOR THE ADMINISTRATION OF A FAILING SCHOOL DISTRICT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-17-13, Mississippi Code of 1972, is amended as follows:

37-17-13. (1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(12)(b), the State Board of Education, in addition to any actions taken under Section 37-17-6, may abolish the school district and assume control and administration of the schools formerly constituting the district, and appoint an interim superintendent to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the

previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq. and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district in accordance with the procedures set forth in Section 37-17-6(15) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected after a period of maintaining a "C" accountability rating for five (5) consecutive years, unless the State Board of Education determines that the district is eligible to return to local control in less than the five-year period, the State Board of Education shall reconstitute,

reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members in the manner provided by law. In the event the applicable statute provides that vacancies in an all-elected membership of the school board will be filled by appointment by the remaining members of the school board and no members of the school board remain in office, the Governor shall call a special election to fill the vacancies. In such situations, the Governor will set the date of the special election and the election will be conducted by the county election commission. The State Board of Education shall also request the governing authority or authorities to provide for the appointment of a superintendent or superintendents to govern the reconstituted, reorganized or changed district or districts, which such appointed position shall apply in all school districts including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time

the Governor declares a state of emergency in a school district to be abolished shall not be eligible to serve in that office for the school district reconstituted, reorganized or changed after the Governor declares that an emergency no longer exists.

(4) As an alternative to the procedure set forth in subsection (3), in the event a local school board is abolished by the State Board of Education pursuant to this section, after the State Board of Education determines that the impairments are being substantially corrected and the responsibility of the district transformation in such district upon the conclusion of the final scholastic year in which a district has maintained a "C" accountability rating for five (5) consecutive years, unless the State Board of Education determines that the district is eligible to return to local control in less than the five-year period, the State Board of Education may appoint a new five-member board for the administration of the school district and shall notify the local county board of supervisors and/or municipal governing authority of such appointment, spreading the names of the new school board members on its minutes. The new local school board members shall be residents of the school district. The new local school board members appointed by the State Board of Education may serve in an advisory capacity to the interim superintendent for its first year of service and thereafter shall have full responsibility to administer the school district. Thirty (30) days prior to the end of the first year of office as an advisory

board, each member shall draw lots to determine when the members shall rotate off the board as follows: one (1) member shall serve a one-year term of office; one (1) member shall serve a two-year term of office; one (1) member shall serve a three-year term of office; one (1) member shall serve a four-year term of office; and one (1) member shall serve a five-year term of office. At that time, the State Board of Education shall notify the appropriate board of supervisors or municipal governing authority of this action and request them to provide for the election or appointment of school board members at the end of the terms of office in the manner provided by law, in order for the local residents of the school district to select a new school board on a phased-in basis. In such situations, the Governor will set the date of any necessary special election which shall be conducted by the county election commission. The State Board of Education shall also request the new school board to provide for the appointment of a superintendent to govern the reconstituted or reorganized school district, including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time the Governor declares a state of emergency in a school district shall not be eligible to serve in the office of school board member or superintendent for the school district reconstituted or reorganized following the district transformation period.

This subsection (4) shall stand repealed from and after July 1, * * * 2023.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2510

Description: Foreign limited liability companies; revise administrative revocation.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/14	(S) Referred To Judiciary, Division A
2	02/18	(S) Title Suff Do Pass
3	03/04	(S) Passed {Vote}
4	03/05	(S) Transmitted To House
5	03/25	(H) Referred To Judiciary A
6	06/03	(H) Title Suff Do Pass
7	06/11	(H) Passed {Vote}
8	06/12	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

----- Additional Information -----

Senate Committee: Judiciary, Division A
House Committee: Judiciary A

Principal Author: Doty

Title: AN ACT TO AMEND SECTION 79-29-1021, MISSISSIPPI CODE OF 1972, TO REVISE THE GROUNDS FOR ADMINISTRATIVE REVOCATION OF THE REGISTRATION OF A FOREIGN LIMITED LIABILITY COMPANY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Doty To: Judiciary, Division A

SENATE BILL NO. 2510

AN ACT TO AMEND SECTION 79-29-1021, MISSISSIPPI CODE OF 1972, TO REVISE THE GROUNDS FOR ADMINISTRATIVE REVOCATION OF THE REGISTRATION OF A FOREIGN LIMITED LIABILITY COMPANY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 79-29-1021, Mississippi Code of 1972, is amended as follows:

79-29-1021. (1) The Secretary of State may commence a proceeding under Section 79-29-1023 to administratively revoke the registration of a foreign limited liability company authorized to transact business in this state if:

(a) The foreign limited liability company does not pay within sixty (60) days after they are due any fees imposed by this chapter or other law;

(b) The foreign limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after it is due;

(c) The foreign limited liability company is without a registered agent in this state for sixty (60) days or more;

(d) The foreign limited liability company does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned;

(e) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other public official having custody of corporate records in the state or country under whose law the foreign limited liability company is organized stating that it has been dissolved or ceased to exist as the result of a merger; * * *

(f) The Department of Revenue notifies the Secretary of State that the limited liability company is delinquent in any payments or tax owed by the limited liability company to the State of Mississippi; or

(* * *g) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign limited liability company to the Secretary of State pursuant to this chapter.

(2) The Secretary of State may not administratively revoke a registration of a foreign limited liability company unless the Secretary of State sends the foreign limited liability company notice of the administrative revocation under Section 79-29-1023, at least sixty (60) days before its effective date, by a record addressed to its registered agent, or to the foreign limited liability company if the foreign limited liability company fails

to appoint and maintain a proper agent in this state. The notice must specify the cause for the administrative revocation of the registration. The authority of the foreign limited liability company to transact business in this state ceases on the effective date of the administrative revocation unless the foreign limited liability company cures the failure before that date.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2511

Description: Teachers; revise licensure.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/14	(S) Referred To Education
2	02/19	(S) Title Suff Do Pass
3	03/04	(S) Amended
4	03/04	(S) Passed As Amended {Vote}
5	03/06	(S) Transmitted To House
6	03/17	(H) Referred To Education
7	06/01	(H) Title Suff Do Pass As Amended
8	06/02	(H) Amended
9	06/02	(H) Passed As Amended {Vote}
10	06/03	(H) Returned For Concurrence
11	06/10	(S) Concurred in Amend From House {Vote}
12	06/17	(S) Enrolled Bill Signed
13	06/17	(H) Enrolled Bill Signed
14	06/23	Approved by Governor

Amendments:

[S] Amendment No 1 ***Adopted*** Voice Vote
[H] Amendment No 1 ***Adopted*** Voice Vote
Amendment Report for Senate Bill No. 2511

Code Section: A 037-0003-0002

----- Additional Information -----

Senate Committee: Education
House Committee: Education

Principal Author: DeBar
Additional Authors: Barnett, Butler, Horhn, Jackson (11th), Jordan, Moran, Norwood

Title: AN ACT TO AMEND SECTION 37-3-2, MISSISSIPPI CODE OF 1972, TO REVISE LICENSURE QUALIFICATIONS AND REQUIREMENTS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) DeBar, Barnett, Butler, Horhn, Jackson (11th), Jordan, Moran, Norwood

To: Education

SENATE BILL NO. 2511
(As Sent to Governor)

AN ACT TO AMEND SECTION 37-3-2, MISSISSIPPI CODE OF 1972, TO REVISE LICENSURE QUALIFICATIONS AND REQUIREMENTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-3-2, Mississippi Code of 1972, is amended as follows:

37-3-2. (1) There is established within the State Department of Education the Commission on Teacher and Administrator Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2) (a) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be composed of the following members to be appointed, three (3) from each of the four (4) congressional districts, as such districts

existed on January 1, 2011, in accordance with the population calculations determined by the 2010 federal decennial census, including: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of public institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from public community and junior colleges located within the state to be recommended by the Mississippi Community College Board; one (1) local school board member; and four (4) laypersons. Three (3) members of the commission, at the sole discretion of the State Board of Education, shall be appointed from the state at large.

(b) All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments shall designate a chairman. The commission shall meet at least

once every two (2) months or more often if needed. Members of the commission shall be compensated at a rate of per diem as authorized by Section 25-3-69 and be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(4) (a) An appropriate staff member of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve as executive secretary and coordinator for the commission. No less than two (2) other appropriate staff members of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve on the staff of the commission.

(b) An Office of Educator Misconduct Evaluations shall be established within the State Department of Education to assist the commission in responding to infractions and violations, and in conducting hearings and enforcing the provisions of subsections (11), (12), (13), (14) and (15) of this section, and violations of the Mississippi Educator Code of Ethics.

(5) It shall be the duty of the commission to:

(a) Set standards and criteria, subject to the approval of the State Board of Education, for all educator preparation programs in the state;

(b) Recommend to the State Board of Education each year approval or disapproval of each educator preparation program in the state, subject to a process and schedule determined by the State Board of Education;

(c) Establish, subject to the approval of the State Board of Education, standards for initial teacher certification and licensure in all fields;

(d) Establish, subject to the approval of the State Board of Education, standards for the renewal of teacher licenses in all fields;

(e) Review and evaluate objective measures of teacher performance, such as test scores, which may form part of the licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification and licensure;

(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas; and

(l) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

(6) (a) **Standard License - Approved Program Route.** An educator entering the school system of Mississippi for the first time and meeting all requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements. Applicants for a standard license shall submit to the department:

(i) An application on a department form;

(ii) An official transcript of completion of a teacher education program approved by the department or a nationally accredited program, subject to the following: Licensure to teach in Mississippi prekindergarten through kindergarten classrooms shall require completion of a teacher education program or a Bachelor of Science degree with child development emphasis from a program accredited by the American

Association of Family and Consumer Sciences (AAFCS) or by the National Association for Education of Young Children (NAEYC) or by the National Council for Accreditation of Teacher Education (NCATE). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary program of studies with two (2) or more areas of concentration. Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All applicants for standard licensure shall demonstrate that such person's college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a Bachelor of Science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS). Effective July 1, 2016, for initial elementary education licensure, a teacher candidate must earn a passing score on a rigorous test of scientifically research-based reading instruction

and intervention and data-based decision-making principles as approved by the State Board of Education;

(iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service's teacher testing examinations;

(iv) Any other document required by the State Board of Education; and

(v) From and after * * * July 1, 2020, no teacher candidate shall be licensed to teach in Mississippi who did not meet the following criteria for entrance into an approved teacher education program:

1. An ACT Score of twenty-one (21) * * * (or SAT equivalent); or

2. Achieve * * * a qualifying passing score on the Praxis Core Academic Skills for Educators examination as established by the State Board of Education; * * * or

3. A minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program.

* * *

(b) **Standard License - Nontraditional Teaching Route.** From and after * * * July 1, 2020, no teacher candidate shall be licensed to teach in Mississippi under the alternate route who did not meet the following criteria:

(i) An ACT Score of twenty-one (21) * * * (or SAT equivalent); or

(ii) Achieve * * * a qualifying passing score on the Praxis Core Academic Skills for Educators examination as established by the State Board of Education; * * * or

(iii) A minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program.

* * *

Beginning * * * July 1, 2020, an individual who has attained a passing score on the Praxis * * * Core Academic Skills for Educators or an ACT Score of twenty-one (21) (or SAT equivalent) or a minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program and a passing score on the Praxis * * * Subject Assessment in the requested area of endorsement may apply for admission to the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b). The State Board of Education shall adopt rules requiring that teacher preparation institutions which provide the Teach Mississippi Institute (TMI) program for the preparation of nontraditional teachers shall meet the standards and comply with the provisions of this paragraph.

(i) The Teach Mississippi Institute (TMI) shall include an intensive eight-week, nine-semester-hour summer program or a curriculum of study in which the student matriculates in the

fall or spring semester, which shall include, but not be limited to, instruction in education, effective teaching strategies, classroom management, state curriculum requirements, planning and instruction, instructional methods and pedagogy, using test results to improve instruction, and a one (1) semester three-hour supervised internship to be completed while the teacher is employed as a full-time teacher intern in a local school district. The TMI shall be implemented on a pilot program basis, with courses to be offered at up to four (4) locations in the state, with one (1) TMI site to be located in each of the three (3) Mississippi Supreme Court districts.

(ii) The school sponsoring the teacher intern shall enter into a written agreement with the institution providing the Teach Mississippi Institute (TMI) program, under terms and conditions as agreed upon by the contracting parties, providing that the school district shall provide teacher interns seeking a nontraditional provisional teaching license with a one-year classroom teaching experience. The teacher intern shall successfully complete the one (1) semester three-hour intensive internship in the school district during the semester immediately following successful completion of the TMI and prior to the end of the one-year classroom teaching experience.

(iii) Upon completion of the nine-semester-hour TMI or the fall or spring semester option, the individual shall submit his transcript to the commission for provisional licensure

of the intern teacher, and the intern teacher shall be issued a provisional teaching license by the commission, which will allow the individual to legally serve as a teacher while the person completes a nontraditional teacher preparation internship program.

(iv) During the semester of internship in the school district, the teacher preparation institution shall monitor the performance of the intern teacher. The school district that employs the provisional teacher shall supervise the provisional teacher during the teacher's intern year of employment under a nontraditional provisional license, and shall, in consultation with the teacher intern's mentor at the school district of employment, submit to the commission a comprehensive evaluation of the teacher's performance sixty (60) days prior to the expiration of the nontraditional provisional license. If the comprehensive evaluation establishes that the provisional teacher intern's performance fails to meet the standards of the approved nontraditional teacher preparation internship program, the individual shall not be approved for a standard license.

(v) An individual issued a provisional teaching license under this nontraditional route shall successfully complete, at a minimum, a one-year beginning teacher mentoring and induction program administered by the employing school district with the assistance of the State Department of Education.

(vi) Upon successful completion of the TMI and the internship provisional license period, applicants for a Standard

License - Nontraditional Route shall submit to the commission a transcript of successful completion of the twelve (12) semester hours required in the internship program, and the employing school district shall submit to the commission a recommendation for standard licensure of the intern. If the school district recommends licensure, the applicant shall be issued a Standard License - Nontraditional Route which shall be valid for a five-year period and be renewable.

(vii) At the discretion of the teacher preparation institution, the individual shall be allowed to credit the twelve (12) semester hours earned in the nontraditional teacher internship program toward the graduate hours required for a Master of Arts in Teacher (MAT) Degree.

(viii) The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such individual is completing teacher internship requirements and shall compensate such Standard License - Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

Implementation of the TMI program provided for under this paragraph (b) shall be contingent upon the availability of funds appropriated specifically for such purpose by the Legislature. Such implementation of the TMI program may not be deemed to prohibit the State Board of Education from developing and

implementing additional alternative route teacher licensure programs, as deemed appropriate by the board. The emergency certification program in effect prior to July 1, 2002, shall remain in effect.

A Standard License - Approved Program Route shall be issued for a five-year period, and may be renewed. Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License - Approved Program Route or Standard License - Nontraditional Teaching Route over persons holding any other license.

(c) **Special License - Expert Citizen.** In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a one-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state. Such person may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. The board shall adopt rules and regulations to administer the expert citizen-teacher license. A Special License - Expert Citizen may be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License - Nonrenewable.** The State Board of Education is authorized to establish rules and regulations to

allow those educators not meeting requirements in paragraph (a), (b) or (c) of this subsection (6) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school district or a nonpublic school accredited/approved by the state. Such person shall submit to the department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License - Transitional Bilingual Education.** Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a

speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education.

(g) In the event any school district meets the highest accreditation standards as defined by the State Board of Education in the accountability system, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(h) **Highly Qualified Teachers.** Beginning July 1, 2006, any teacher from any state meeting the federal definition of highly qualified, as described in the No Child Left Behind Act, must be granted a standard five-year license by the State Department of Education.

(7) **Administrator License.** The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.

(a) **Administrator License - Nonpracticing.** Those educators holding administrative endorsement but having no administrative experience or not serving in an administrative position on January 15, 1997.

(b) **Administrator License - Entry Level.** Those educators holding administrative endorsement and having met the department's qualifications to be eligible for employment in a Mississippi school district. Administrator License - Entry Level shall be issued for a five-year period and shall be nonrenewable.

(c) **Standard Administrator License - Career Level.** An administrator who has met all the requirements of the department for standard administrator licensure.

(d) **Administrator License - Nontraditional Route.** The board may establish a nontraditional route for licensing

administrative personnel. Such nontraditional route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree, a master of public planning and policy degree or a doctor of jurisprudence degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for administrators shall qualify the person for a standard administrator license.

Individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. All applicants for school administrator licensure shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.

(8) **Reciprocity.** (a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and meets minimum Mississippi license requirements or equivalent requirements as determined by the State Board of Education. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state. Such special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) **Renewal and Reinstatement of Licenses.** The State Board of Education is authorized to establish rules and regulations for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the educator's license to a higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee established by the commission and composed of commission members,

or by a hearing officer retained and appointed by the commission, for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission on Teacher and Administrator Education, Certification and Licensure and Development. The decision thereon by the commission, its subcommittee or hearing officer, shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the commission, its subcommittee or hearing officer. An appeal to the State Board of Education shall be perfected upon filing a notice of the appeal and by the prepayment of the costs of the preparation of the record of proceedings by the commission, its subcommittee or hearing officer. An appeal shall be on the record previously made before the commission, its subcommittee or hearing officer, unless otherwise provided by rules and regulations adopted by the board. The decision of the commission, its subcommittee or hearing officer shall not be disturbed on appeal if supported by substantial evidence, was not arbitrary or capricious, within the authority of the commission, and did not violate some statutory or constitutional right. The State Board of Education in its authority may reverse, or remand with instructions, the decision of the commission, its subcommittee or hearing officer. The decision of the State Board of Education shall be final.

(11) (a) The State Board of Education, acting through the commission, may deny an application for any teacher or administrator license for one or more of the following:

(i) Lack of qualifications which are prescribed by law or regulations adopted by the State Board of Education;

(ii) The applicant has a physical, emotional or mental disability that renders the applicant unfit to perform the duties authorized by the license, as certified by a licensed psychologist or psychiatrist;

(iii) The applicant is actively addicted to or actively dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effect, at the time of application for a license;

(iv) Fraud or deceit committed by the applicant in securing or attempting to secure such certification and license;

(v) Failing or refusing to furnish reasonable evidence of identification;

(vi) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law. For purposes of this subparagraph (vi) of this paragraph (a), a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(vii) The applicant or licensee is on probation or post-release supervision for a felony or conviction, as defined by federal or state law. However, this disqualification expires upon the end of the probationary or post-release supervision period.

(b) The State Board of Education, acting through the commission, shall deny an application for any teacher or administrator license, or immediately revoke the current teacher or administrator license, for one or more of the following:

(i) If the applicant or licensee has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or state law. For purposes of this subparagraph (i) of this paragraph (b), a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(ii) The applicant or licensee is on probation or post-release supervision for a sex offense conviction, as defined by federal or state law;

(iii) The license holder has fondled a student as described in Section 97-5-23, or had any type of sexual involvement with a student as described in Section 97-3-95; or

(iv) The license holder has failed to report sexual involvement of a school employee with a student as required by Section 97-5-24.

(12) The State Board of Education, acting through the commission, may revoke, suspend or refuse to renew any teacher or

administrator license for specified periods of time or may place on probation, reprimand a licensee, or take other disciplinary action with regard to any license issued under this chapter for one or more of the following:

(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law. For purposes of this paragraph, a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(e) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1);

(f) The license holder has engaged in unethical conduct relating to an educator/student relationship as identified by the State Board of Education in its rules;

(g) The license holder served as superintendent or principal in a school district during the time preceding and/or that resulted in the Governor declaring a state of emergency and the State Board of Education appointing a conservator;

(h) The license holder submitted a false certification to the State Department of Education that a statewide test was administered in strict accordance with the Requirements of the Mississippi Statewide Assessment System; or

(i) The license holder has failed to comply with the Procedures for Reporting Infractions as promulgated by the commission and approved by the State Board of Education pursuant to subsection (15) of this section.

For purposes of this subsection, probation shall be defined as a length of time determined by the commission, its subcommittee or hearing officer, and based on the severity of the offense in which the license holder shall meet certain requirements as prescribed by the commission, its subcommittee or hearing officer. Failure to complete the requirements in the time specified shall result in immediate suspension of the license for one (1) year.

(13) (a) Dismissal or suspension of a licensed employee by a local school board pursuant to Section 37-9-59 may result in the suspension or revocation of a license for a length of time which

shall be determined by the commission and based upon the severity of the offense.

(b) Any offense committed or attempted in any other state shall result in the same penalty as if committed or attempted in this state.

(c) A person may voluntarily surrender a license. The surrender of such license may result in the commission recommending any of the above penalties without the necessity of a hearing. However, any such license which has voluntarily been surrendered by a licensed employee may only be reinstated by a majority vote of all members of the commission present at the meeting called for such purpose.

(14) (a) A person whose license has been suspended or surrendered on any grounds except criminal grounds may petition for reinstatement of the license after one (1) year from the date of suspension or surrender, or after one-half (1/2) of the suspended or surrendered time has lapsed, whichever is greater. A person whose license has been suspended or revoked on any grounds or violations under subsection (12) of this section may be reinstated automatically or approved for a reinstatement hearing, upon submission of a written request to the commission. A license suspended, revoked or surrendered on criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked, suspended or surrendered license may be

reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.

(b) A person whose license expires while under investigation by the Office of Educator Misconduct for an alleged violation may not be reinstated without a hearing before the commission if required based on the results of the investigation.

(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or revocation. The commission shall immediately notify the superintendent of the school district or school board where the teacher or administrator is employed of any disciplinary action and also notify the teacher or administrator of such revocation or suspension and shall maintain records of action taken. The State Board of Education may reverse or remand with instructions any decision of the commission, its subcommittee or hearing officer regarding a petition for reinstatement of a license, and any such decision of the State Board of Education shall be final.

(16) An appeal from the action of the State Board of Education in denying an application, revoking or suspending a license or otherwise disciplining any person under the provisions of this section shall be filed in the Chancery Court of the First Judicial District of Hinds County, Mississippi, on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be filed within thirty (30) days after notification of the action of the board is mailed or served and the proceedings in chancery court shall be conducted as other matters coming before the court. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of preparation of the record of the proceedings by the State Board of Education, and the filing of a bond in the sum of Two Hundred Dollars ($200.00) conditioned that if the action of the board be affirmed by the chancery court, the applicant or license holder shall pay the costs of the appeal and the action of the chancery court.

(17) All such programs, rules, regulations, standards and criteria recommended or authorized by the commission shall become effective upon approval by the State Board of Education as designated by appropriate orders entered upon the minutes thereof.

(18) The granting of a license shall not be deemed a property right nor a guarantee of employment in any public school district. A license is a privilege indicating minimal eligibility for teaching in the public school districts of Mississippi. This

section shall in no way alter or abridge the authority of local school districts to require greater qualifications or standards of performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2552

Description: Brewpubs and small craft breweries; remove certain limits and prohibitions.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Finance
2	03/03	(S) Title Suff Do Pass Comm Sub
3	03/11	(S) Committee Substitute Adopted
4	03/11	(S) Amended
5	03/11	(S) Passed As Amended {Vote}
6	03/13	(S) Transmitted To House
7	03/25	(H) Referred To Ways and Means
8	06/09	(H) Title Suff Do Pass
9	06/10	(H) Passed {Vote}
10	06/11	(H) Returned For Enrolling
11	06/17	(S) Enrolled Bill Signed
12	06/17	(H) Enrolled Bill Signed
13	06/23	Approved by Governor

Amendments:

[S] Amendment No 1 (Cmte Sub)***Adopted*** Voice Vote

Code Section: A 067-0003-0022, A 067-0003-0069, A 027-0071-0301, BF 027-0071-0303

----- Additional Information -----

Senate Committee: Finance
House Committee: Ways and Means

Principal Author: Hopson
Additional Authors: Blount, Moran

Title: AN ACT TO AMEND SECTIONS 67-3-22 AND 67-3-69, MISSISSIPPI CODE OF 1972, TO REMOVE THE PROHIBITIONS AGAINST, AND PENALTIES FOR, BREWPUBS SELLING BEER AND LIGHT WINE AWAY FROM THEIR PREMISES AND PACKAGING BEER AND LIGHT WINE SO THAT THEY MAY BE CARRIED

AWAY FROM THEIR PREMISES; TO AMEND SECTION 27-71-301, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF BREWPUB ACCORDINGLY; TO BRING FORWARD SECTION 27-71-303, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Hopson, Blount, Moran To: Finance

SENATE BILL NO. 2552
(As Passed the Senate)

AN ACT TO AMEND SECTIONS 67-3-22 AND 67-3-69, MISSISSIPPI CODE OF 1972, TO REMOVE THE PROHIBITIONS AGAINST, AND PENALTIES FOR, BREWPUBS SELLING BEER AND LIGHT WINE AWAY FROM THEIR PREMISES AND PACKAGING BEER AND LIGHT WINE SO THAT THEY MAY BE CARRIED AWAY FROM THEIR PREMISES; TO AMEND SECTION 27-71-301, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF BREWPUB ACCORDINGLY; TO BRING FORWARD SECTION 27-71-303, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 67-3-22, Mississippi Code of 1972, is amended as follows:

67-3-22. (1) The production limits for a brewpub shall be based upon production as determined by the Department of Revenue pursuant to Section 27-71-307, Mississippi Code of 1972, and a brewpub shall not manufacture more than seventy-five thousand (75,000) gallons of light wine or beer per calendar year.

(2) Light wine or beer produced at a brewpub shall not be sold at a price less than it cost to manufacture such light wine or beer.

* * *

(* * *3) A brewpub shall be required to offer for sale light wine or beer that is normally carried on the inventory of wholesalers or distributors of light wine or beer.

SECTION 2. Section 67-3-69, Mississippi Code of 1972, is amended as follows:

67-3-69. (1) Except as to Sections 67-3-17, 67-3-23, 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of this chapter or of any rule or regulation of the commissioner, shall be a misdemeanor and, where the punishment therefor is not elsewhere prescribed in this section, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or imprisonment for not more than six (6) months, or both, in the discretion of the court. If any person so convicted shall be the holder of any permit or license issued by the commissioner under authority of this chapter, the permit or license shall from and after the date of such conviction be void and the holder thereof shall not thereafter, for a period of one (1) year from the date of such conviction, be entitled to any permit or license for any purpose authorized by this chapter. Upon conviction of the holder of any permit or license, the appropriate law enforcement officer shall seize the permit or license and transmit it to the commissioner.

(2) (a) Any person who shall violate any provision of Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by

imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

(b) Any person who shall violate any provision of Section 67-3-57 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than one (1) year, or by both, in the discretion of the court. Any person convicted of violating any provision of the sections referred to in this subsection shall forfeit his permit, and shall not thereafter be permitted to engage in any business taxable under the provisions of Sections 27-71-301 through 27-71-347.

(3) If the holder of a permit, or the employee of the holder of a permit, shall be convicted of selling any beer or wine to anyone who is visibly intoxicated from the licensed premises or to any person under the age of twenty-one (21) years from the licensed premises in violation of Section 67-3-53(b), then, in addition to any other penalty provided for by law, the commissioner may impose the following penalties against the holder of a permit:

(a) For the first offense on the licensed premises, by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) and/or suspension of the permit for not more than three (3) months.

(b) For a second offense occurring on the licensed premises within twelve (12) months of the first offense, by a fine of not less than Five Hundred Dollars ($500.00) nor more than Two Thousand Dollars ($2,000.00) and/or suspension of the permit for not more than six (6) months.

(c) For a third offense occurring on the licensed premises within twelve (12) months of the first, by a fine of not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00) and/or suspension or revocation of the permit to sell beer or light wine.

(d) For a fourth or subsequent offense occurring on the licensed premises within twelve (12) months of the first, by a fine of not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00) and/or suspension or revocation of the permit to sell beer or light wine.

(4) A person who sells any beer or wine to a person under the age of twenty-one (21) years shall not be guilty of a violation of Section 67-3-53(b) if the person under the age of twenty-one (21) years represents himself to be twenty-one (21) years of age or older by displaying an apparently valid Mississippi driver's license containing a physical description consistent with his appearance or by displaying some other apparently valid identification document containing a picture and physical description consistent with his appearance for the purpose of inducing the person to sell beer or wine to him.

* * *

(* * *5) If a small craft brewery is convicted of violating the provisions of Section 67-3-48, then, in addition to any other provision provided for by law, the small craft brewery shall be punished as follows:

(a) For the first offense, the small craft brewery may be fined in an amount not to exceed Five Hundred Dollars ($500.00).

(b) For a second offense occurring within twelve (12) months of the first offense, the small craft brewery may be fined an amount not to exceed One Thousand Dollars ($1,000.00).

(c) For a third or subsequent offense occurring within twelve (12) months of the first offense, the small craft brewery may be fined an amount not to exceed Five Thousand Dollars ($5,000.00) and the permit to operate as a manufacturer shall be suspended for thirty (30) days.

SECTION 3. Section 27-71-301, Mississippi Code of 1972, is amended as follows:

27-71-301. When used in this article the words and terms hereafter mentioned shall have the following definitions:

(a) "State Auditor" means the State Auditor of Public Accounts of the State of Mississippi or any legally appointed deputy, clerk or agent.

(b) "Person" includes all natural persons or corporations, a partnership, an association, a joint venture, an

estate, a trust, or any other group or combination acting as a unit and shall include the plural as well as the singular unless an intention to give another meaning thereto is disclosed in the context.

(c) "Consumer" means a person who comes into the possession of beer or light wine, the sale of which is authorized by Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose of consuming it, giving it away or otherwise disposing of it in any manner except by sale, barter or exchange.

(d) "Retailer" means any person who comes into the possession of such light wines or beer for the purpose of selling it to the consumer, or giving it away, or exposing it where it may be taken or purchased or acquired in any other manner by the consumer; however, the term "retailer" shall not include a person who offers and provides beer on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47.

(e) "Wholesaler" means any person who comes into possession of such light wine or beer for the purpose of selling, distributing, or giving it away to retailers or other wholesalers or dealers inside or outside of this state.

(f) "Commissioner" means the Commissioner of Revenue of the Department of Revenue or his duly appointed agents or employees.

(g) "Sale" includes the exchange of such light wines or beer for money, or giving away or distributing any such light

wines or beer for anything of value; however, the term "sale" shall not include beer offered and provided on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47.

(h) "Light wines or beer" means beer and light wines legalized for sale by the provisions of Chapter 3 of Title 67, Mississippi Code of 1972.

(i) "Distributor" includes every person who receives either from within or from without this state, from a brewery, a winery or any other source, light wines or beer as defined in Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose of distributing or otherwise disposing of such light wines or beer to a wholesaler or retailer of such light wines or beer.

(j) "Brewpub" means the premises of any location in which light wine or beer is manufactured or brewed, for retail sale if the total amount of light wine or beer produced on the premises does not exceed the production limitation imposed in Section 67-3-22, and the light wine or beer is produced for consumption on the premises * * *, although without prohibition on sales for off-premises consumption.

(k) "Hospitality cart" means a mobile cart from which alcoholic beverages and light wine and beer are sold on a golf course and for which a hospitality cart permit has been issued under Section 67-1-51.

(l) "Small craft brewery" shall have the meaning ascribed to such term in Section 67-3-3.

(m) "Manufacturer" means a person who brews beer at a brewery; however, the term does not include "brewpubs."

SECTION 4. Section 27-71-303, Mississippi Code of 1972, is brought forward as follows:

27-71-303. Upon each person approved for a permit to engage in the business of selling light wines or beer there is hereby imposed, levied and assessed, to be collected and paid as herein provided, annual privilege taxes in the following amounts:

(a) Retailers--for each place of business.....$ 30.00

(b) Wholesalers or distributors--for each county.....$ 100.00

(c) Manufacturers--for each place of business.....$1,000.00

(d) Brewpubs--for each place of business.....$1,000.00

Upon each person operating an airline, bus, boat or railroad car upon which light wines or beer may be sold there is hereby imposed, levied and assessed, to be collected and paid, annual privilege taxes of Thirty Dollars ($30.00) for each airplane, bus, boat or railroad car so operated in this state.

Provided, however, the amount of the privilege tax to be paid for a permit issued for a period of less than twelve (12) months

shall be that proportionate amount of the annual privilege tax that the number of months, or part of a month, remaining until its expiration date bears to twelve (12) months, but in no case shall the privilege tax be less than Ten Dollars ($10.00).

SECTION 5. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2565

Description: 16th section trust interest; authorize districts to spend once loan payments are current.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/17	(S) Referred To Education
2	03/03	(S) Title Suff Do Pass
3	03/04	(S) Passed {Vote}
4	03/05	(S) Transmitted To House
5	03/25	(H) Referred To Education
6	05/28	(H) Title Suff Do Pass
7	06/01	(H) Passed {Vote}
8	06/03	(H) Returned For Enrolling
9	06/04	(S) Enrolled Bill Signed
10	06/04	(H) Enrolled Bill Signed
11	06/11	Approved by Governor

Code Section: A 029-0003-0113

----- Additional Information -----

Senate Committee: Education
House Committee: Education

Principal Author: Hopson

Title: AN ACT TO AMEND SECTION 29-3-113, MISSISSIPPI CODE OF 1972, TO AUTHORIZE SCHOOL DISTRICTS TO SPEND INTEREST ACCRUED FROM 16TH SECTION TRUSTS ONCE THE SCHOOL DISTRICT IS CURRENT ON ITS LOAN PAYMENTS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Hopson To: Education

SENATE BILL NO. 2565

AN ACT TO AMEND SECTION 29-3-113, MISSISSIPPI CODE OF 1972, TO AUTHORIZE SCHOOL DISTRICTS TO SPEND INTEREST ACCRUED FROM 16TH SECTION TRUSTS ONCE THE SCHOOL DISTRICT IS CURRENT ON ITS LOAN PAYMENTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 29-3-113, Mississippi Code of 1972, is amended as follows:

29-3-113. The principal fund shall be a permanent township fund which shall consist of funds heretofore or hereafter derived from certain uses or for certain resources of school trust lands which shall be invested and, except as otherwise provided in this section, only the interest and income derived from such funds shall be expendable by the school district.

The principal fund shall consist of:

(a) Funds received for easements and rights-of-way pursuant to Section 29-3-91;

(b) Funds received for sales of lieu land pursuant to Sections 29-3-15 through 29-3-25;

(c) Funds received from any permanent damage to the school trust land;

(d) Funds received from the sale of nonrenewable resources, including, but not limited to, the sale of sand, gravel, dirt, clays and royalties received from the sale of mineral ores, coal, oil and gas;

(e) Funds received from the sale of buildings pursuant to Section 29-3-77;

(f) Funds received from the sale of timber; and

(g) Funds received pursuant to Section 29-3-23(2).

It shall be the duty of the Board of Education to keep the principal fund invested in any direct obligation issued by or guaranteed in full as to principal and interest by the United States of America or in certificates of deposit issued by a qualified depository of the State of Mississippi as approved by the State Treasurer. The certificates of deposit may bear interest at any rate per annum which may be mutually agreed upon but in no case shall said rate be less than that paid on passbook savings.

The Board of Education is authorized to invest the funds in interest bearing deposits or other obligations of the types described in Section 27-105-33 or in any other type investment in which any other political subdivision of the State of Mississippi may invest, except that one hundred percent (100%) of the funds are authorized to be invested. For the purposes of investment,

the principal fund of each township may be combined into one or more district accounts; however, the docket book of the county superintendent shall at all times reflect the proper source of such funds. Provided that funds received from the sale of timber shall be placed in a separate principal fund account, and may be expended for any of the purposes authorized by law.

The Board of Education shall have authority to borrow such funds at a rate of interest not less than four percent (4%) per annum and for a term not exceeding twenty (20) years, for the erection, equipment or repair of said district schools, to provide local funds for any building project approved by the State Board of Education or to provide additional funds for forest stand improvement as set forth in Section 29-3-47. In addition, the board may borrow the funds under the same interest restrictions for a term not exceeding ten (10) years to provide funds for the purchase of school buses. The Board of Education of any school district in any county that has an aggregate amount of assets in its principal fund in excess of Five Million Dollars ($5,000,000.00) * * * may deduct an amount not to exceed Five Hundred Thousand Dollars ($500,000.00) for the purpose of covering the cost of asbestos removal from school district buildings. Such asbestos removal shall be construed to constitute the repair of school district facilities as prescribed in Section 29-3-115.

No school land trust funds may be expended after the annual payment date until the payment is made on such loan. Once a

district is current on its loan payments, the district may spend expendable trust funds earned or accumulated in previous years for any purpose for which expendable trust funds may be spent. The annual payment can be made from any funds available to the school district except minimum foundation program funds.

It shall be unlawful for the Board of Education to borrow any sixteenth section school funds in any other manner than that prescribed herein, and if any such funds shall be borrowed or invested in any other manner, any officer concerned in making such loan and investment or suffering the same to be made in violation of the provisions of this section * * * shall be liable personally and on his official bond for the safety of the funds so loaned.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2594

Description: The Equal Opportunity for Students with Special Needs Act; revise and extend repealer.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/17	(S) Referred To Education; Appropriations
2	02/27	(S) DR - TSDPCS: ED To AP
3	02/27	(S) Title Suff Do Pass Comm Sub
4	03/06	(S) Committee Substitute Adopted
5	03/06	(S) Amendment Failed
6	03/06	(S) Passed {Vote}
7	03/09	(S) Transmitted To House
8	03/25	(H) Referred To Education; Appropriations
9	06/01	(H) DR - TSDP: ED To AP
10	06/09	(H) DR - TSDP: AP To ED
11	06/09	(H) Title Suff Do Pass
12	06/12	(H) Passed {Vote}
13	06/15	(H) Motion to Reconsider Entered (Cockerham, Bennett, McCarty)
14	06/15	(H) Motion to Reconsider Tabled
15	06/15	(H) Returned For Enrolling
16	06/19	(S) Enrolled Bill Signed
17	06/19	(H) Enrolled Bill Signed
18	06/25	Approved by Governor

Amendments:

[S] Amendment No 1 (Cmte Sub)Pending

Code Section: R 037-0181-0001, A 037-0181-0003, A 037-0181-0005, A 037-0181-0007, A 037-0181-0009, A 037-0181-0011, A 037-0181-0013, A 037-0181-0015, A 037-0181-0017, R 037-0181-0019, R 037-0181-0021

----- Additional Information -----

Senate Committee: Education, Appropriations

House Committee: Education, Appropriations

Principal Author: DeBar

Title: AN ACT TO REENACT SECTION 37-181-1, MISSISSIPPI CODE OF 1972, WHICH IS THE TITLE SECTION OF THE EQUAL OPPORTUNITY FOR STUDENTS WITH SPECIAL NEEDS ACT; TO AMEND SECTION 37-181-3, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 37-181-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT QUALIFYING EXPENSES MUST HAVE BEEN INCURRED WITHIN THE AWARDED ESA SCHOOL YEAR; TO PROVIDE THAT COMPUTER HARDWARE AND SOFTWARE PURCHASED WITH ESA FUNDS SHALL BE DONATED TO A PUBLIC SCHOOL OR LIBRARY ONCE A STUDENT IS NO LONGER ELIGIBLE FOR THE ESA PROGRAM; TO PROVIDE THAT AN ORIGINAL ITEMIZED RECEIPT FOR EXPENSES IS TO BE RETURNED TO THE DEPARTMENT; TO PROVIDE THAT A STUDENT'S REMAINING ESA FUNDS SHALL BE DISTRIBUTED TO THE STUDENT'S HOME SCHOOL DISTRICT UPON A STUDENT'S RETURN TO HIS OR HER HOME SCHOOL DISTRICT; TO AMEND SECTION 37-181-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT TO MAINTAIN THE WAITLIST FOR ELIGIBLE STUDENTS IN CHRONOLOGICAL ORDER; TO AMEND SECTION 37-181-9, MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY OF THE DEPARTMENT TO CONTRACT WITH A QUALIFIED NONPROFIT ORGANIZATION TO ADMINISTER THE ESA PROGRAM; TO AMEND SECTION 37-181-11, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ONLY THE PARENT OR GUARDIAN WHO SUBMITTED THE ESA APPLICATION IS AUTHORIZED TO SEEK REIMBURSEMENT FOR QUALIFIED EXPENSES; TO AMEND SECTION 37-181-13, MISSISSIPPI CODE OF 1972, TO REVISE PEER'S REVIEW OF THE ESA PROGRAM; TO AMEND SECTION 37-181-15, MISSISSIPPI CODE OF 1972, TO REQUIRE ELIGIBLE SCHOOLS TO PROVIDE PARENTS WITH DETAILS OF ITS STUDENTS' RECORD OF ACHIEVEMENT AND ITS CAPACITY TO SERVE THE PARTICIPATING STUDENTS WITHIN THE SCOPE OF THEIR IEP; TO REQUIRE ELIGIBLE SCHOOLS TO MANDATE A STUDENT ASSESSMENT; TO REQUIRE ELIGIBLE SCHOOLS TO NOTIFY A PARENT OR GUARDIAN APPLYING FOR THE ESA PROGRAM THAT THE PARENT OR GUARDIAN WAIVES THE RIGHT OF THE PARTICIPATING STUDENT TO AN INDIVIDUAL ENTITLEMENT TO A FREE AND APPROPRIATE PUBLIC EDUCATION; TO AMEND SECTION 37-181-17, MISSISSIPPI CODE OF 1972, TO LIMIT THE DEPARTMENT'S REGULATION OF THE EDUCATIONAL PROGRAM OF A NONPUBLIC SCHOOL, POSTSECONDARY INSTITUTION OR EDUCATIONAL SERVICE PROVIDER TO THE AUTHORITY OF THIS CHAPTER; TO REQUIRE PARTICIPATING SCHOOLS TO SUBMIT STUDENT PERFORMANCE DATA TO THE DEPARTMENT AT THE END OF THE SCHOOL YEAR; TO REENACT SECTION 37-181-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT THE DEPARTMENT MAY RECEIVE AND EXPEND CONTRIBUTIONS FROM ANY PUBLIC OR PRIVATE SOURCE TO FUND ESAS FOR PARTICIPATING STUDENTS; TO REENACT SECTION 37-181-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT THE PROVISIONS OF THIS ACT ARE SEVERABLE; TO CREATE NEW SECTION 37-181-23, MISSISSIPPI

CODE OF 1972, TO CODIFY AND EXTEND THE DATE OF THE AUTOMATIC REPEALER ON SECTIONS 37-181-1 THROUGH 37-181-23; TO AMEND SECTION 12, CHAPTER 441, LAWS OF 2015, TO DELETE THE AUTOMATIC REPEALER FROM WITHIN THE CHAPTER LAWS; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI SB 2594

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) DeBar

To: Education;
Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2594

AN ACT TO REENACT SECTION 37-181-1, MISSISSIPPI CODE OF 1972, WHICH IS THE TITLE SECTION OF THE EQUAL OPPORTUNITY FOR STUDENTS WITH SPECIAL NEEDS ACT; TO AMEND SECTION 37-181-3, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 37-181-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT QUALIFYING EXPENSES MUST HAVE BEEN INCURRED WITHIN THE AWARDED ESA SCHOOL YEAR; TO PROVIDE THAT COMPUTER HARDWARE AND SOFTWARE PURCHASED WITH ESA FUNDS SHALL BE DONATED TO A PUBLIC SCHOOL OR LIBRARY ONCE A STUDENT IS NO LONGER ELIGIBLE FOR THE ESA PROGRAM; TO PROVIDE THAT AN ORIGINAL ITEMIZED RECEIPT FOR EXPENSES IS TO BE RETURNED TO THE DEPARTMENT; TO PROVIDE THAT A STUDENT'S REMAINING ESA FUNDS SHALL BE DISTRIBUTED TO THE STUDENT'S HOME SCHOOL DISTRICT UPON A STUDENT'S RETURN TO HIS OR HER HOME SCHOOL DISTRICT; TO AMEND SECTION 37-181-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT TO MAINTAIN THE WAITLIST FOR ELIGIBLE STUDENTS IN CHRONOLOGICAL ORDER; TO AMEND SECTION 37-181-9, MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY OF THE DEPARTMENT TO CONTRACT WITH A QUALIFIED NONPROFIT ORGANIZATION TO ADMINISTER THE ESA PROGRAM; TO AMEND SECTION 37-181-11, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ONLY THE PARENT OR GUARDIAN WHO SUBMITTED THE ESA APPLICATION IS AUTHORIZED TO SEEK REIMBURSEMENT FOR QUALIFIED EXPENSES; TO AMEND SECTION 37-181-13, MISSISSIPPI CODE OF 1972, TO REVISE PEER'S REVIEW OF THE ESA PROGRAM; TO AMEND SECTION 37-181-15, MISSISSIPPI CODE OF 1972, TO REQUIRE ELIGIBLE SCHOOLS TO PROVIDE PARENTS WITH DETAILS OF ITS STUDENTS' RECORD OF ACHIEVEMENT AND ITS CAPACITY TO SERVE THE PARTICIPATING STUDENTS WITHIN THE SCOPE OF THEIR IEP; TO REQUIRE ELIGIBLE SCHOOLS TO MANDATE A STUDENT ASSESSMENT; TO REQUIRE ELIGIBLE SCHOOLS TO NOTIFY A PARENT OR GUARDIAN APPLYING FOR THE ESA PROGRAM THAT THE PARENT OR GUARDIAN WAIVES THE RIGHT OF THE PARTICIPATING STUDENT TO AN INDIVIDUAL ENTITLEMENT TO A FREE AND APPROPRIATE PUBLIC EDUCATION; TO AMEND SECTION 37-181-17, MISSISSIPPI CODE OF 1972, TO LIMIT THE DEPARTMENT'S REGULATION OF THE EDUCATIONAL PROGRAM OF A NONPUBLIC SCHOOL, POSTSECONDARY INSTITUTION OR EDUCATIONAL

SERVICE PROVIDER TO THE AUTHORITY OF THIS CHAPTER; TO REQUIRE PARTICIPATING SCHOOLS TO SUBMIT STUDENT PERFORMANCE DATA TO THE DEPARTMENT AT THE END OF THE SCHOOL YEAR; TO REENACT SECTION 37-181-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT THE DEPARTMENT MAY RECEIVE AND EXPEND CONTRIBUTIONS FROM ANY PUBLIC OR PRIVATE SOURCE TO FUND ESAS FOR PARTICIPATING STUDENTS; TO REENACT SECTION 37-181-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT THE PROVISIONS OF THIS ACT ARE SEVERABLE; TO CREATE NEW SECTION 37-181-23, MISSISSIPPI CODE OF 1972, TO CODIFY AND EXTEND THE DATE OF THE AUTOMATIC REPEALER ON SECTIONS 37-181-1 THROUGH 37-181-23; TO AMEND SECTION 12, CHAPTER 441, LAWS OF 2015, TO DELETE THE AUTOMATIC REPEALER FROM WITHIN THE CHAPTER LAWS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-181-1, Mississippi Code of 1972, is reenacted as follows:

37-181-1. This chapter shall be known and may be cited as "The Equal Opportunity for Students with Special Needs Act."

SECTION 2. Section 37-181-3, Mississippi Code of 1972, is amended as follows:

37-181-3. The terms used in this chapter shall have the meanings ascribed herein, unless the context clearly indicates otherwise:

(a) "ESA program" means * * * the Education Scholarship Account (ESA) program created in this chapter.

(b) "Eligible student" means any student who has had an active Individualized Education Program (IEP) within the past * * * three (3) years and has maintained eligibility.

(c) "Participating student" means any student who meets the qualifications of an eligible student as defined in paragraph (b) of this section and is participating in an ESA program at an eligible school.

(* * *d) "Parent" means a resident of this state who is a parent, legal guardian, custodian or other person with the authority to act on behalf of the eligible student.

(* * *e) "Department" means the State Department of Education.

(* * *f) "Home school district" means the public school district in which the student resides.

(* * *g) "Eligible school" means a * * * state-accredited special purpose school, a state-accredited nonpublic school, or a nonpublic school located in the state that has enrolled a participating student and is providing services for the participating student's disability or special education needs, or is providing services addressing a participating student's IEP. * * * An eligible school does not include a home instruction program under Section 37-13-91, Mississippi Code of 1972.

(* * *h) "Tutor" means a person who is certified or licensed by a state, regional, or national certification, * * * licensing, or accreditation organization or who has earned a valid teacher's license or who has experience teaching at an eligible postsecondary institution.

(* * *i) "Postsecondary institution" means a community college, college, or university accredited by a state, regional or national accrediting organization.

(* * *j) "Educational service provider" means an eligible school, tutor, or other person or organization that

provides education-related services and products to participating students.

(k) "Awarded ESA school year" means the duration of the school year in which ESA program funds are deposited in a student's ESA.

(l) Nothing in this section shall negate federal law requiring public school districts to identify and provide services to students with disabilities who live within the public school district, including those enrolled in nonpublic schools or home instruction programs.

(m) An eligible school shall provide notice to a participating student's home school district when the eligible student enrolls in the eligible school with an ESA. Furthermore, a public school district providing special education services to a participating student enrolled in an eligible school shall be reimbursed by the eligible school, or parent or guardian who submitted the ESA application, fair market value for any special education services rendered to the eligible student in an amount not to exceed the amount of ESA funds reimbursed to the eligible student during the awarded ESA school year.

SECTION 3. Section 37-181-5, Mississippi Code of 1972, is amended as follows:

37-181-5. (1) An eligible student shall qualify to participate in the ESA program if the parent signs an agreement promising:

(a) To provide an organized, appropriate educational program with measurable annual goals to their participating student and * * * to provide an education for the * * * participating student in at least the subjects of reading, grammar, mathematics, social studies and science;

(b) To document their participating student's disability at intervals and in a manner required under subsection (8) of this section;

(c) Not to enroll their participating student in a public school and to acknowledge as part of the agreement that the * * * eligible school has provided clear notice to the parent that the participating student has no individual entitlement to a free appropriate public education (FAPE) from their home school district, including special education and related services, for as long as the student is participating in the ESA program;

(d) Not to file for their participating student a certificate of enrollment indicating participation in a home instruction program under Section 37-13-91, Mississippi Code of 1972; and

(e) Not to participate in the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program or the Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program while participating in the ESA program.

(2) Parents shall use the funds deposited in a participating student's ESA for any of the following qualifying expenses, which shall be incurred within the awarded ESA school year, to educate the student using any of the below methods or combination of methods that meet the requirement in subsection (1)(a) of this section:

(a) Tuition and/or academic fees at an eligible school;

(b) Textbooks related to academic coursework;

(c) Payment to a tutor, as defined in Section 37-181-3(h);

(d) Payment for purchase of curriculum, including any supplemental materials required by the curriculum;

* * *

(* * *e) Fees for nationally standardized norm-referenced achievement tests, including alternate assessments; and fees for Advanced Placement examinations or similar courses and any examinations related to college or university admission;

(* * *f) Educational services or therapies from a licensed or certified practitioner or provider, including licensed or certified paraprofessionals or educational aides;

* * *

(* * *g) Tuition and fees related to dual enrollment at a postsecondary institution;

(* * *h) Textbooks related to academic coursework at a postsecondary institution;

(* * *i) Surety bond payments if required by the department;

(* * *j) No more than Fifty Dollars ($50.00) in annual consumable school supplies necessary for educational services and therapies, daily classroom activities, and tutoring;

(* * *k) Computer hardware and software and other technological devices if an eligible school, licensed or certified tutor, licensed or certified educational service practitioner or provider, or licensed medical professional verifies in writing that these items are essential for the student to meet annual, measurable educational and academic goals or goals within the scope of the eligible student's IEP. Once a student is no longer * * * participating in the ESA program, computer hardware and software and other technological devices purchased with ESA funds * * * shall be donated to a public school or public library. Qualifying expenses for computer hardware and software include only those expenses incurred within the awarded ESA school year.

(3) Neither a participating student, nor anyone on the student's behalf, may receive cash or cash-equivalent items, such as gift cards or store credit, from any refunds or rebates from any provider of services or products in * * * the ESA program. Any refunds or rebates shall be credited directly to the

participating student's ESA. The funds in an ESA may only be used for education-related purposes as defined in this chapter.

(4) (a) Eligible schools, postsecondary institutions and educational service providers that serve participating students shall provide * * * the parent or guardian who submitted the ESA program application with * * * an original itemized receipt, including the service provider's name and address, for all qualifying expenses. The parent or guardian who submitted the ESA application shall provide the original itemized receipt to the department.

(b) In lieu of providing the parent or guardian who submitted the ESA program application with an original itemized receipt, the eligible schools, postsecondary institutions and educational service providers may provide to the department an original itemized receipt approved and signed off on by the parent or guardian who submitted the ESA application, including the service provider's name and address, for all qualifying expenses.

(* * *5) Payment for educational services through an ESA shall not preclude parents from paying for educational services using non-ESA funds.

* * *

(6) For purposes of continuity of educational attainment, students who enroll in the ESA program shall remain eligible to receive quarterly ESA payments until the participating student returns to a public school, completes high school, completes the

school year in which the student reaches the age of twenty-one (21), or does not have eligibility verified by a parent as required under subsection (8) of this section, whichever occurs first.

(7) Any funds remaining in a student's Education Scholarship Account upon completion of high school shall be returned to the state's General Fund.

(8) Every three (3) years after initial enrollment in the ESA program, a parent of a participating student, except a student diagnosed as being a person with a permanent disability, shall document that the student continues to be identified by the school district, a federal or state government agency, or a licensed physician or psychometrist as a child with a disability, as defined by the federal Individuals with Disabilities Education Act (20 USCS Section 1401(3)).

(9) * * * An eligible student shall be allowed to return to his home school district at any time after enrolling in the ESA program, in compliance with regulations adopted by the department providing for the least disruptive process for doing so. Upon * * * the participating student's return to his or her home school district, * * * the student's Education Scholarship Account shall be closed and any remaining funds shall be * * * distributed to the * * * student's home school district at the end of the awarded ESA school year.

(10) The department shall begin accepting applications for the ESA program on July 1, * * * 2020.

SECTION 4. Section 37-181-7, Mississippi Code of 1972, is amended as follows:

37-181-7. (1) The ESA program created in this chapter shall be limited to five hundred (500) students in the school year 2015-2016, with new enrollment limited to five hundred (500) additional students each year thereafter. Subject to appropriation from the General Fund, each student's ESA shall be funded at Six Thousand Five Hundred Dollars ($6,500.00) for school year 2015-2016. For each subsequent year, this amount shall increase or decrease by the same proportion as the base student cost under Section 37-151-7(1)(b) is increased or decreased.

(2) Subject to appropriation, eligible students shall be approved for participation in the ESA program as follows:

(a) Until participation in the ESA program reaches fifty percent (50%) of the annual enrollment limits in subsection (1) of this section, students shall be approved on a first-come, first-served basis, with applications being reviewed on a rolling basis;

(b) After participation reaches fifty percent (50%) of the annual enrollment limits in subsection (1) of this section, the department shall set annual application deadlines for the remaining number of available ESAs and begin to maintain a waiting list of eligible students. * * * The waitlist will be maintained

in the chronological order in which applications are received. The department shall award ESA program applications in chronological order according to the waitlist; and

(c) Participating students who remain eligible for the ESA program are automatically approved for participation for the following year and are not subject to the random selection process.

(3) No funds for an ESA may be expended from the Mississippi Adequate Education Program, nor shall any school district be required to provide funding for an ESA.

SECTION 5. Section 37-181-9, Mississippi Code of 1972, is amended as follows:

37-181-9. (1) The department shall create a standard form that parents of students submit to establish their student's eligibility for an Education Scholarship Account. The department shall ensure that the application is readily available to interested families through various sources, including the department's website and the copy of procedural safeguards annually given to parents.

(2) The department shall provide parents of participating students with a written explanation of the allowable uses of Education Scholarship Accounts, the responsibilities of parents and the duties of the department. This information shall also be made available on the department's website.

(3) The department shall annually notify all students with an IEP of the existence of the ESA program and shall ensure that lower-income families are made aware of their potential eligibility.

(4) The department may deduct an amount up to a limit of six percent (6%) from appropriations used to fund Education Scholarship Accounts to cover the costs of overseeing the funds and administering the ESA program.

(5) (a) The department shall make a determination of eligibility, and shall approve the application, within twenty-one (21) business days of receiving an application for participation in the ESA program, subject to the provisions of Section 37-181-3(b).

(b) The department shall provide for a procedure that children with a ruling of hearing impairment or children suspected of a hearing loss shall receive a comprehensive educational assessment which may include the areas of cognitive development, language/speech, audiological and academic achievement from the state-funded Mississippi Assistance Center for Hearing Loss. Children with a ruling of visual impairment or children suspected of a visual impairment shall receive a comprehensive low vision evaluation from the state-funded Low Vision Clinic.

(6) The home school district shall provide the parent of a participating student with a complete copy of the student's school records, while complying with the Family Educational Rights and

Privacy Act of 1974 (20 USCS Section 1232(g)). The record shall be provided no later than thirty (30) days after a parent signs an agreement to participate in the ESA program.

* * *

SECTION 6. Section 37-181-11, Mississippi Code of 1972, is amended as follows:

37-181-11. (1) To ensure that funds are spent appropriately, the State Department of Education shall adopt rules and policies necessary for the administration of the ESA program, including the auditing of Education Scholarship Accounts, and shall conduct or contract for random audits throughout the year.

(2) (a) The department * * * shall develop a system for payment of benefits, including, but not limited to, allowing educational service providers to invoice the department * * * for qualified expenses consistent with Section 37-181-5(2), or allowing * * * the parent or guardian who submitted the ESA program application to seek reimbursement for qualified expenses consistent with Section 37-181-5(2).

(b) The department * * * may make payments to educational service providers or reimbursement to * * * the parent or guardian who submitted the ESA program application via check or warrant or electronic funds transfer or any other means of payment deemed to be commercially viable or cost-effective.

(c) The department may also establish by rule that some payments to educational service providers will be made on a

quarterly basis, rather than an annual basis, if the educational services will be rendered over an extended period of time.

(3) The department shall adopt a process for removing educational service providers that defraud parents and for referring cases of fraud to law enforcement.

(4) The department shall establish or contract for the establishment of an online anonymous fraud reporting service.

(5) The department shall establish or contract for the establishment of an anonymous telephone hotline for fraud reporting.

SECTION 7. Section 37-181-13, Mississippi Code of 1972, is amended as follows:

37-181-13. (1) The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall prepare a biannual report, beginning in 2018 and every two (2) years thereafter, assessing * * * efficacy of Education Scholarship Accounts, to include the sufficiency of funding, and recommending any suggested changes in state law or policy necessary to improve the ESA program.

(2) The report shall assess:

(a) The degree to which eligible schools are meeting the needs of participating students as defined by the participating students' IEPs;

(* * *b) The level of participating students' satisfaction with the ESA program;

(* * *c) The level of parental satisfaction with the ESA program;

(* * *d) Participating students' performance, both pre-assessment and post-assessment, on the eligible school's current assessment used to demonstrate academic progress, a nationally standardized norm-referenced achievement * * * test, or a current state board-approved screener, as required in Section 37-181-15(f);

(* * *e) Participating students' performance on Advanced Placement examinations or similar courses and any examinations related to college or university admission;

(* * *f) The four-year high school graduation rates and college acceptance rates of participating students;

(* * *g) The percentage of funds used for each qualifying expense identified in Section 37-181-5(2); and

(* * *h) The fiscal impact to the state and home school districts of the ESA program, which must consider both the impact on revenue and the impact on expenses. Furthermore, the fiscal savings associated with students departing public schools must be explicitly quantified, even if the public school losing the student(s) does not reduce its spending accordingly.

(3) The report shall:

(a) Apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study; and

(b) Protect the identity of participating students and schools by, among other things, keeping anonymous all disaggregated data.

(4) PEER may accept grants to assist in funding the study.

(5) PEER shall provide the Legislature with a final copy of the * * * report of the ESA program before December 31 * * * each year the report is due. At the same time, the study shall also be placed in a prominent location on the PEER website.

(6) PEER must make its data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USCS Section 1232(g)).

SECTION 8. Section 37-181-15, Mississippi Code of 1972, is amended as follows:

37-181-15. To ensure that students are treated fairly and kept safe, all eligible schools shall:

(a) Comply with the nondiscrimination policies set forth in 42 USCS 1981;

(b) Prior to a participating student's application for enrollment, provide parents with details of the school's programs, record of student achievement, qualifications, experience, * * * capacities to serve students with special needs, and capacity to serve the participating student within the scope of their IEP;

(c) Comply with all health and safety laws or codes that apply to nonpublic schools;

(d) Hold a valid occupancy permit if required by their municipality;

(e) Have no public record of fraud or malfeasance;

(f) * * * Require participating students * * * to take a pre-assessment at the beginning of the school year and a post-assessment at the end of the school year. The eligible school shall have the option to select their current assessment used to demonstrate academic progress, a nationally standardized norm-referenced achievement test, or a current state board-approved screener;

(g) Notify a parent or guardian applying for the ESA program that the parent or guardian waives the right of the participating student to an individual entitlement to a free and appropriate public education (FAPE) from their home school district, including special education and related services, for as long as the student is participating in the ESA program;

(* * *h) Conduct criminal background checks on employees * * * and:

(i) Exclude from employment any person not permitted by state law to work in a nonpublic school; and

(ii) Exclude from employment any person who might reasonably pose a threat to the safety of students * * *; and

(i) An eligible school shall certify to the department upon enrollment of a participating student that the eligible school shall provide services for the participating student's

disability or special education needs, or shall provide services addressing a participating student's IEP.

SECTION 9. Section 37-181-17, Mississippi Code of 1972, is amended as follows:

37-181-17. (1) An eligible nonpublic school is autonomous and not an agent of the state or federal government and therefore:

(a) The State Department of Education or any other government agency shall not * * * regulate the educational program of a nonpublic school, postsecondary institution or educational service provider that accepts funds from the parent of a participating student beyond the requirements of the ESA program as promulgated in this chapter;

(b) The creation of the Education Scholarship Account program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of nonpublic schools, postsecondary institutions or educational service providers beyond those necessary to enforce the requirements of the ESA program; and

(c) Eligible schools, postsecondary institutions and educational service providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control. No eligible school, postsecondary institution or educational service provider shall be required to alter its creed, practices, admission policies or curriculum in order to accept participating students.

(2) Eligible schools, or the parent or guardian who submitted the ESA application, must submit student performance data to the State Department of Education at the end of the school year, including the individual results of the pre-assessment and post-assessment required in Section 37-181-15(f).

(* * *3) In any legal proceeding challenging the application of this chapter to an eligible school, postsecondary institution or educational service provider the state bears the burden of establishing that the law is necessary and does not impose any undue burden on the eligible school, postsecondary institution or educational service provider.

SECTION 10. Section 37-181-19, Mississippi Code of 1972, is reenacted as follows:

37-181-19. The State Department of Education may receive and expend contributions from any public or private source to fund ESAs for participating students.

SECTION 11. Section 37-181-21, Mississippi Code of 1972, is reenacted as follows:

37-181-21. If any provision of this law or its application is held invalid, the invalidity does not affect other provisions or applications of this law which can be given effect without the invalid provision or application and to this end the provisions of this law are severable.

SECTION 12. The following shall be codified as Section 37-181-23, Mississippi Code of 1972:

37-181-23. Sections 37-181-1 through 37-181-23, Mississippi Code of 1972, shall stand repealed on July 1, * * * 2024.

SECTION 13. Section 12, Chapter 441, Laws of 2015, is amended as follows:

Section 12. This act shall take effect and be in force from and after its passage * * *.

SECTION 14. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2611

Description: General and special courts-martial; may order forfeiture of all pay of offenders.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Veterans and Military Affairs
2	02/26	(S) Title Suff Do Pass
3	03/05	(S) Passed {Vote}
4	03/06	(S) Transmitted To House
5	03/25	(H) Referred To Military Affairs
6	05/29	(H) Title Suff Do Pass
7	06/11	(H) Passed {Vote}
8	06/12	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 033-0013-0155, A 033-0013-0157, A 033-0013-0159

----- Additional Information -----

Senate Committee: Veterans and Military Affairs
House Committee: Military Affairs

Principal Author: Seymour

Title: AN ACT TO AMEND SECTIONS 33-13-155, 33-13-157 AND 33-13-159, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT GENERAL AND SPECIAL COURTS-MARTIAL SHALL HAVE JURISDICTION TO ORDER FORFEITURE OF ALL PAY AND ALLOWANCES OF OFFENDERS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Seymour To: Veterans and Military Affairs

SENATE BILL NO. 2611

AN ACT TO AMEND SECTIONS 33-13-155, 33-13-157 AND 33-13-159, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT GENERAL AND SPECIAL COURTS-MARTIAL SHALL HAVE JURISDICTION TO ORDER FORFEITURE OF ALL PAY AND ALLOWANCES OF OFFENDERS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 33-13-155, Mississippi Code of 1972, is amended as follows:

33-13-155. (1) Subject to Section 33-13-153 of this code, general courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may under such limitations as the Governor may prescribe, adjudge any of the following punishments:

(a) A fine of not more than Two Thousand Dollars ($2,000.00) and/or confinement for not more than six (6) months, and/or forfeiture of all pay and/or allowances;

(b) A reprimand; or

(c) A bad conduct discharge; or

(d) Dismissal or a dishonorable discharge; or

(e) Reduction of enlisted personnel to lowest pay grade; or

(f) Any combination of these punishments.

(2) A dismissal, a bad conduct, or dishonorable discharge may not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under Section 33-13-15(2) of this code was detailed to represent the accused, and a military judge was detailed to the trial.

SECTION 2. Section 33-13-157, Mississippi Code of 1972, is amended as follows:

33-13-157. (1) Subject to Section 33-13-153 of this code, special courts-martial have jurisdiction to try persons subject to this code, except commissioned officers, for any offense for which they may be punished under this code. A special court-martial has the same powers or punishment as a general court-martial, except:

(a) A fine of not more than One Thousand Dollars ($1,000.00), and/or confinement of not more than one hundred (100) days for a single offense, and/or forfeiture of all pay and/or allowances.

(b) A dishonorable discharge may not be imposed.

(2) A dismissal of a warrant officer or a bad conduct discharge may not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under Section 33-13-15(2) of this code

was detailed to represent the accused, and a military judge was detailed to the trial, except in any case in which a military judge could not be detailed to the trial because of physical conditions or military exigencies. In any such case in which a military judge was not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason or reasons a military judge could not be detailed.

SECTION 3. Section 33-13-159, Mississippi Code of 1972, is amended as follows:

33-13-159. (1) Subject to Section 33-13-153 of this code, summary courts-martial have jurisdiction to try persons subject to this code, except officers, for any offense made punishable by this code.

(2) Any person given notice of trial by a summary courts-martial may request trial before a special or general courts-martial. The decision to grant this request is reserved to the special or general court-martial convening authority, respectively.

(3) The maximum sentence a summary courts-martial may impose for a single offense is:

(a) A fine of not more than Two Hundred Fifty Dollars ($250.00), and/or forfeiture of all pay and/or allowances;

(b) Reduction to the lowest or any intermediate pay grade, but an enlisted member in a pay grade above E-4 may not be reduced more than four (4) pay grades;

(c) Confinement for not more than thirty (30) days;

(d) Forfeiture of all pay and allowances for any period of confinement;

(e) If found to have willfully or maliciously caused any injury to any person or property, restitution in an amount of Three Thousand Five Hundred Dollars ($3,500.00) or less; and

(f) Any punishment authorized in Section 33-13-31.

(4) Any person given notice of a trial by a summary courts-martial who fails to appear at trial may be tried, convicted and sentenced in absentia.

SECTION 4. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2660

Description: Superload vehicles; authorize law enforcement to escort and to charge reasonable fee for escort.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Highways and Transportation
2	02/26	(S) Title Suff Do Pass
3	03/11	(S) Passed {Vote}
4	03/12	(S) Transmitted To House
5	03/25	(H) Referred To Transportation
6	06/04	(H) Title Suff Do Pass
7	06/16	(H) Passed {Vote}
8	06/17	(H) Returned For Enrolling
9	06/19	(S) Enrolled Bill Signed
10	06/19	(H) Enrolled Bill Signed
11	06/25	Approved by Governor

Code Section: A 063-0005-0049, A 027-0019-0081

----- Additional Information -----

Senate Committee: Highways and Transportation
House Committee: Transportation

Principal Author: Fillingane
Additional Authors: Jackson (11th)

Title: AN ACT TO AMEND SECTION 63-5-49, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MISSISSIPPI LAW ENFORCEMENT ESCORT OF SUPERLOAD VEHICLES TO PROMOTE SAFETY AND EFFICIENCY ON MISSISSIPPI HIGHWAYS; TO AMEND SECTION 27-19-81, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE AGENCY PERFORMING THE ESCORT TO CHARGE A REASONABLE FEE FOR THE ESCORT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Fillingane, Jackson (11th)

To: Highways and Transportation

SENATE BILL NO. 2660

AN ACT TO AMEND SECTION 63-5-49, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MISSISSIPPI LAW ENFORCEMENT ESCORT OF SUPERLOAD VEHICLES TO PROMOTE SAFETY AND EFFICIENCY ON MISSISSIPPI HIGHWAYS; TO AMEND SECTION 27-19-81, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE AGENCY PERFORMING THE ESCORT TO CHARGE A REASONABLE FEE FOR THE ESCORT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-5-49, Mississippi Code of 1972, is amended as follows:

63-5-49. (1) Any police officer, law enforcement officer of the Department of Public Safety or authorized enforcement officer of the Mississippi Department of Transportation may require the driver of any vehicle that is required by law or by any rule or regulation of the Mississippi Department of Transportation or the * * * Department of Revenue to stop at inspection stations and submit to an inspection to stop and submit to a weighing of the vehicle, either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scales for weighing. To aid the enforcement of this chapter, the

Transportation Department may assign up to forty (40) portable scale teams as it deems necessary for efficient enforcement.

(2) Whenever such an officer, upon weighing a vehicle and load as above provided, determines that the weight is unlawful, such officer shall assess a penalty against the owner or operator in accordance with Section 27-19-89, and may require the driver to drive the vehicle to a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

(3) Any police officer, law enforcement officer of the Department of Public Safety, or authorized enforcement officer of the Transportation Department who stops a vehicle pursuant to subsection (1) of this section shall have the authority to inspect such vehicle to determine whether or not such vehicle is engaged in the illegal transportation of any contraband.

(4) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses, when directed by such an officer upon weighing of the vehicle, to stop the vehicle and otherwise comply with the provisions of this section, shall be guilty of a misdemeanor, punishable by a fine of not more than One Thousand Dollars ($1,000.00), or by confinement in the county jail for not more

than thirty (30) days, or by both such fine and jail sentence and, if operating at a gross weight in excess of the legal limit, such additional penalty or assessment as provided by law.

(5) It is the intent of the Legislature that the Department of Public Safety and all police officers shall cooperate with the Transportation Department in the enforcement of the highway weight laws of this state.

(6) Any police officer, law enforcement officer of the Department of Public Safety or authorized enforcement officer of the Mississippi Department of Transportation shall be authorized to escort any vehicle designated as a superload vehicle pursuant to the regulations of the Mississippi Department of Transportation. The escort shall be performed in a marked law enforcement vehicle with operating blue lights.

SECTION 2. Section 27-19-81, Mississippi Code of 1972, is amended as follows:

27-19-81. (1) No vehicle shall be registered by the Department of Revenue or by a tax collector, and no license tag whatsoever shall be issued therefor, where the gross weight of such vehicle exceeds the limits provided by law. In the event of an emergency requiring the hauling of a greater gross weight than permitted by law, the owner or operator of such vehicle shall obtain an excess weight authorization from the Mississippi Department of Transportation or local authority having jurisdiction of the particular road, street or highway before

operating such vehicle on the highways of this state to haul such a gross weight over a route to be designated by the aforesaid department. It shall then be necessary for the owner or operator of the vehicle to obtain a permit from the Transportation Department, which shall be issued by the department under the same provisions as are provided for the issuance of trip permits under Section 27-19-79, but which permit shall likewise be obtained prior to the operation of such vehicle on the highways. No persons or agencies other than the Mississippi Department of Transportation shall have authority to issue the permits provided for in this section. The fee to be charged for such permits shall be computed in the same manner provided in Section 27-19-79 for each one thousand (1,000) pounds, or fractional part thereof, of gross weight above the licensed capacity of the vehicle, up to the maximum legal weights provided by this article on the roads to be traveled.

This subsection shall apply, but not be limited to, any tractor, road roller or road machinery used solely and specifically in road building or other highway construction or maintenance work.

For each one thousand (1,000) pounds, or fractional part thereof, in excess of the weight authorized by Sections 63-5-29 and 63-5-33 for any such vehicle or in excess of the limits set by the Transportation Department for specified roads and bridges, the fee shall be Five Cents (5¢) per one thousand (1,000) pounds, or

fractional part thereof, for each mile traveled upon the highways of the state, except that the fee for manufactured housing modular units, residential or commercial, shall be Two Cents (2¢) per one thousand (1,000) pounds, or fractional part thereof, for each mile traveled upon the highways of the state. Provided, however, no permit shall be issued for a fee of less than Ten Dollars ($10.00).

The Transportation Department may provide for an annual permit which will allow preapproved vehicles and loads to travel predesignated routes with self-issued permits. Under such self-issuance authority, the owner of the vehicle shall complete the permit in a format designated by the department, electronically transmit a copy to the department prior to the move, and ensure that a copy is in the possession of the operator. Vehicles having a gross weight exceeding the limits provided by law that have a nondivisible gross vehicle weight of ninety-five thousand (95,000) pounds or less, which are otherwise legal, shall not be restricted as to the hours of the day such vehicles may be operated on predesignated routes. The department shall bill the vehicle owner according to the provisions of the preceding paragraph. The department is authorized to modify predesignated routes at any time for cause, such as highway construction or hazardous highway conditions. The annual fee for the self-issuance permit authority obtained pursuant to this paragraph shall be Five Hundred Dollars ($500.00) per owner, regardless of

the number of vehicles which he will operate pursuant to such permit, in addition to any other fees required by this section. Any vehicle and load being operated pursuant to this paragraph for which the operator does not have the permit or a copy thereof in his possession, or for which a copy of the permit was not electronically transmitted to the department, shall be deemed not to have a permit and shall be penalized accordingly.

It shall not be necessary for the owner or operator of a vehicle to obtain a permit pursuant to this subsection if such owner or operator has obtained for his vehicle an annual special permit for vehicles transporting heavy equipment pursuant to Section 63-5-52.

(2) Before operating a vehicle where the size of the load being hauled is in excess of that permitted by law, the owner or operator of such vehicle shall obtain excess size authorization from the Transportation Department or proper local authority and an excess size permit from the Transportation Department. Such excess size permit shall be issued by the Mississippi Department of Transportation under the same provisions as are provided for the issuance of trip permits under Section 27-19-79, and it shall be obtained prior to the operation of such vehicle on the highways. The fee to be charged for such excess size permit shall be Ten Dollars ($10.00) per trip. Such permits may be issued for an extended period of time and must coincide with the expiration date and other provisions of the carrier's permit or authorization

issued by the Transportation Department or local authority. The fee for such extended permits shall be based upon an annual fee of One Hundred Dollars ($100.00) per carrier. No permit shall be issued under this subsection if the issuance of the permit would violate federal law or would cause the State of Mississippi to lose federal aid funds. This subsection shall not apply to any tractor, road roller or road machinery used solely and specifically in road building or other highway construction or maintenance work or to any machinery or equipment operated on the highways or transported thereon in the course of normal farming activities, including cotton module transporters.

(3) The Executive Director of the Mississippi Department of Transportation may authorize certain carriers of property to issue overweight and/or oversize permits for vehicles owned or operated by such carriers, provided such carriers have blanket authorization from the Transportation Commission and also meet other requirements established by the Transportation Commission.

(4) The owner or operator of a vehicle hauling sand, gravel, woodchips, wood shavings, sawdust, fill dirt, agricultural products, bulk feed, wood pellets or unprocessed forestry products may apply to the Mississippi Department of Transportation for a harvest permit for the purpose of authorizing any such vehicles to operate on the highways in this state (other than the federal interstate system or those highways designated by the Mississippi Department of Transportation as not capable of carrying more than

fifty-seven thousand six hundred fifty (57,650) pounds at the maximum gross weight specified in Section 63-5-33). Harvest permits may be issued and are valid to permit any such vehicle to be operated on a highway in this state that has been designated by the Mississippi Department of Transportation as not capable of carrying more than fifty-seven thousand six hundred fifty (57,650) pounds only if such vehicle operates in compliance with the provisions of Section 63-5-29(3)(b). A fee of Twenty-five Dollars ($25.00) shall be charged for each permit issued. The permit shall be in the form of a decal which shall be affixed to each permitted vehicle on the upper left corner of the windshield on the driver's side. Each permit shall expire one (1) year from its date of issue. The fees collected under this subsection shall be deposited into a special fund that is created in the State Treasury. Monies in the fund shall be allocated and distributed quarterly, beginning September 30, 1994, to each of the counties of the state on an equal basis. Monies distributed to the counties under this subsection shall be deposited in each county's road and bridge fund and may be expended, upon approval of the board of supervisors, for any purpose for which county road and bridge fund monies lawfully may be expended. This subsection (4) shall stand repealed from and after July 1, 2023.

(5) Any owner or operator who has met the requirements set by the Mississippi Transportation Commission may defer payment of permits issued by the department until the end of the current

month. If full payment is not received by the twentieth of the following month, there may be added as damages to the total amount of the delinquency or deficiency the following percentages: ten percent (10%) for the first offense; fifteen percent (15%) for the second offense; and twenty-five percent (25%) for the third and any subsequent offense. Upon the third offense, the department may suspend the privilege to defer payment. The balance due shall become payable upon notice and demand by the department.

(6) The permit fee monies collected under this section, except as provided for in subsection (4) of this section, shall be deposited into the State Highway Fund for the construction, maintenance and reconstruction of highways and roads of the State of Mississippi or the payment of interest and principal on bonds authorized by the Legislature for construction and reconstruction of highways.

(7) The department may waive the permits, taxes and fees set forth in this section whenever a motor vehicle is operated upon the public highways in this state in response to an emergency, a major disaster or the threat of a major disaster.

(8) The Mississippi Department of Transportation and any other law enforcement agency authorized to perform escort of a vehicle designated as a superload vehicle pursuant to regulations of the Mississippi Department of Transportation may charge a reasonable fee to perform the escort of superload vehicles. The

fee charged for escort will be collected by the agency performing the escort.

SECTION 3. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2709

Description: Insurance premium discount for hurricane or windstorm damage mitigation; include commercial property.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Insurance
2	02/26	(S) Title Suff Do Pass
3	03/05	(S) Passed {Vote}
4	03/06	(S) Transmitted To House
5	03/25	(H) Referred To Insurance
6	05/27	(H) Title Suff Do Pass As Amended
7	05/28	(H) Amended
8	05/28	(H) Passed As Amended
9	05/29	(H) Returned For Concurrence
10	06/10	(S) Concurred in Amend From House {Vote}
11	06/17	(S) Enrolled Bill Signed
12	06/17	(H) Enrolled Bill Signed
13	06/23	Approved by Governor

Amendments:

[H] Committee Amendment No 1 ***Adopted***{Vote}

Code Section: A 083-0075-0001, A 083-0075-0003, A 083-0075-0005

----- Additional Information -----

Senate Committee: Insurance
House Committee: Insurance

Principal Author: Michel

Title: AN ACT TO AMEND SECTIONS 83-75-1, 83-75-3 AND 83-75-5, MISSISSIPPI CODE OF 1972, TO INCLUDE COMMERCIAL PROPERTY IN THE INSURANCE PREMIUM DISCOUNT OR RATE REDUCTION FOR HURRICANE OR WINDSTORM DAMAGE MITIGATION; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI SB 2709

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Michel To: Insurance

SENATE BILL NO. 2709
(As Sent to Governor)

AN ACT TO AMEND SECTIONS 83-75-1, 83-75-3 AND 83-75-5, MISSISSIPPI CODE OF 1972, TO INCLUDE COMMERCIAL PROPERTY IN THE INSURANCE PREMIUM DISCOUNT OR RATE REDUCTION FOR HURRICANE OR WINDSTORM DAMAGE MITIGATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-75-1, Mississippi Code of 1972, is amended as follows:

83-75-1. (1) Not later than July 1, 2013, insurance companies shall provide a premium discount or insurance rate reduction in an amount and manner as established in subsection (* * *6) of this section and according to Section 83-75-5. In addition, insurance companies may also offer additional adjustments in deductible, other credit rate differentials, or a combination thereof, collectively referred to as adjustments. These adjustments shall be available under the terms specified in this section to any owner who builds or locates a new insurable property in Harrison, Hancock, Jackson, Stone and Pearl River Counties, to resist loss due to hurricane or other catastrophic windstorm events.

(2) Not later than July 1, 2019, insurance companies shall provide a premium discount or insurance rate reduction for new residential insurable property in an amount and manner as established in subsection (* * *6) of this section and according to Section 83-75-5. In addition, insurance companies may also offer additional adjustments in deductible, other credit rate differentials, or a combination thereof, collectively referred to as adjustments. These adjustments shall be available under the terms specified in this section to any owner who builds or locates a new residential insurable property to resist loss due to tornado or other catastrophic windstorm events in any county located in the State of Mississippi.

(3) Not later than July 1, 2021, insurance companies shall provide a premium discount or insurance rate reduction for new commercial insurable property in an amount and manner as established in subsection (6) of this section and according to Section 83-75-5. In addition, insurance companies may also offer additional adjustments in deductible, other credit rate differentials, or a combination thereof, collectively referred to as adjustments. These adjustments shall be available under the terms specified in this section to any owner who builds or locates a new commercial insurable property to resist loss due to hurricane, tornado or other catastrophic windstorm events in any county located in the State of Mississippi.

(* * *4) To obtain the adjustment provided in this section, an insurable property located in this state shall be certified as constructed * * * in accordance with (a) the 2006 or newer version of the International Residential Code, as amended, including the entire coastal construction supplement as recommended by the Mississippi Windstorm Mitigation Coordination Council; or (b) the 2012 or newer version of the International Building Code, as amended; or * * * (c) the Fortified for Safer Living or similar programs adopted by the Insurance Institute for Business and Home Safety; or * * * (d) any other mitigation program recommended by the Mississippi Windstorm Mitigation Coordination Council and approved by the Commissioner of Insurance. An insurable property shall be certified as conforming to the applicable building codes only after an evaluation of the insurable property has been satisfactorily completed by a building official or a certified and licensed building evaluator. An insurable property shall be certified as conforming to Fortified for Safer Living criteria only after evaluation and certification by an Insurance Institute for Business and Home Safety certified evaluator.

(* * *5) An owner of insurable property claiming an adjustment under this section shall maintain sufficient certification records and construction records including, but not limited to, a Certificate of Occupancy denoting compliance with the applicable building code in subsection (* * *4)(a) of this section or valid certification from the Insurance Institute for

Business and Home Safety for compliance with the program described in subsection (* * *4)(b) of this section.

(* * *6) Insurers required to submit rates and rating plans to the commissioner shall submit an actuarially justified rating plan for any person who builds an insurable property to comply with the sets of requirements of subsection (* * *4) of this section. An insurer is not required to provide the same amount of adjustment for a building code insurable property as the insurer would to a Fortified for Safer Living insurable property. An adjustment shall only apply to policies that provide wind coverage and may apply to that portion of the premium for wind coverage or to the total premium if the insurer does not separate out its premium for wind coverage in its rate filing. The adjustment shall apply exclusively to the premium designated for the improved insurable property. In addition to the requirements of this section, an insurer may voluntarily offer any other mitigation adjustment that the insurer deems appropriate.

SECTION 2. Section 83-75-3, Mississippi Code of 1972, is amended as follows:

83-75-3. (1) Not later than July 1, 2013, insurance companies shall provide a premium discount or insurance rate reduction in an amount and manner as established in subsection (* * *5) of this section and according to Section 83-75-5. In addition, insurance companies may also offer additional adjustments in deductible, other credit rate differentials, or

a combination thereof, collectively referred to as adjustments. These adjustments shall be available under the terms specified in this section to any owner who retrofits his or her insurable property in Harrison, Hancock, Jackson, Stone and Pearl River Counties to resist loss due to hurricane or other catastrophic windstorm events.

(2) Not later than July 1, 2021, insurance companies shall provide a premium discount or insurance rate reduction in an amount and manner as established in subsection (5) of this section and according to Section 83-75-5. In addition, insurance companies may also offer additional adjustments in deductible, other credit rate differentials, or a combination thereof, collectively referred to as adjustments. These adjustments shall be available under the terms specified in this section to any owner who retrofits existing commercial insurable property to resist loss due to tornado or other catastrophic windstorm events in any county located in the State of Mississippi.

(* * *3) To obtain the adjustment provided in this section, an insurable property shall be retrofitted to one (1) of the tiered mitigation levels as defined * * * by the Insurance Institute for Business and Home Safety, or other mitigation program, or other construction technique, or standardized code that is recommended by the Mississippi Windstorm Mitigation Coordination Council and approved by the Commissioner of Insurance. Zone three HUD code manufactured homes installed to

specifications and regulations promulgated by the Commissioner of Insurance shall be considered. An insurable property shall be certified as conforming to Fortified for Safer Homes requirements only after evaluation and certification by an Insurance Institute for Business and Home Safety certified evaluator. Certification of conformity of an insurable property with the other mitigation program, other construction technique, or other standardized code shall be made only by a building official or other certified or licensed building evaluator.

(* * *4) An owner of insurable property claiming an adjustment under this section shall maintain sufficient certification records and construction records including, but not limited to, a certification of compliance with an approved mitigation program as promulgated by the Mississippi Windstorm Mitigation Coordination Council and approved by the Commissioner of Insurance or valid certification from the Insurance Institute for Business and Home Safety for compliance with a program described in subsection (* * *3) of this section.

(* * *5) Insurers required to submit rates and rating plans to the commissioner shall submit actuarially justified rating plans for any person who retrofits an insurable property to comply with the sets of alternatives provided in subsection (* * *3) of this section. The adjustment shall only apply to policies that provide wind coverage and may apply to that portion of the premium for wind coverage or to the total premium if the insurer does not

separate out its premium for wind coverage in its rate filing. The adjustment shall apply exclusively to the premium designated for the improved insurable property. In addition to the requirements of this section, an insurer may voluntarily offer any other mitigation adjustment that the insurer deems appropriate.

SECTION 3. Section 83-75-5, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2021, this section shall read as follows:]

83-75-5. For the purposes of this chapter, the term "insurable property" includes single-family residential property. "Insurable property" also includes modular homes satisfying the codes, standards, or techniques as provided in Section 83-75-1 or 83-75-3. Manufactured homes or mobile homes are excluded from "insurable property," except as expressly provided in Section 83-75-3(* * *3).

[From and after July 1, 2021, this section shall read as follows:]

83-75-5. For the purposes of this chapter, the term "insurable property" includes single-family residential and commercial property. "Insurable property" also includes modular homes satisfying the codes, standards, or techniques as provided in Section 83-75-1 or 83-75-3. Manufactured homes or mobile homes are excluded from "insurable property," except as expressly provided in Section 83-75-3(* * *3).

SECTION 4. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2716

Description: Forestry permits; allow MDOT to issue for transporting of forestry-related equipment.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Highways and Transportation
2	02/26	(S) Title Suff Do Pass Comm Sub
3	03/05	(S) Committee Substitute Adopted
4	03/05	(S) Passed {Vote}
5	03/06	(S) Transmitted To House
6	03/25	(H) Referred To Forestry; Transportation
7	05/27	(H) DR - TSDP: FO To TR
8	06/04	(H) DR - TSDP: TR To FO
9	06/04	(H) Title Suff Do Pass
10	06/12	(H) Passed {Vote}
11	06/15	(H) Returned For Enrolling
12	06/19	(S) Enrolled Bill Signed
13	06/19	(H) Enrolled Bill Signed
14	06/25	Approved by Governor

Code Section: A 063-0005-0052

----- Additional Information -----

Senate Committee: Highways and Transportation
House Committee: Forestry, Transportation

Principal Author: Jackson (32nd)
Additional Authors: Branning, Whaley

Title: AN ACT TO AMEND SECTION 63-5-52, MISSISSIPPI CODE OF 1972, TO ALLOW THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO ISSUE FORESTRY PERMITS TO VEHICLES OF A CERTAIN SIZE FOR THE TRANSPORTING OF FORESTRY-RELATED EQUIPMENT; TO SET AN ANNUAL FEE OF $200.00 PER PULLING UNIT FOR THE PERMIT; TO DESCRIBE THE

ACTIVITIES FOR WHICH THE PERMIT IS AVAILABLE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Jackson (32nd), Branning, Whaley

To: Highways and Transportation

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2716

AN ACT TO AMEND SECTION 63-5-52, MISSISSIPPI CODE OF 1972, TO ALLOW THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO ISSUE FORESTRY PERMITS TO VEHICLES OF A CERTAIN SIZE FOR THE TRANSPORTING OF FORESTRY-RELATED EQUIPMENT; TO SET AN ANNUAL FEE OF $200.00 PER PULLING UNIT FOR THE PERMIT; TO DESCRIBE THE ACTIVITIES FOR WHICH THE PERMIT IS AVAILABLE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-5-52, Mississippi Code of 1972, is amended as follows:

63-5-52. (1) In addition to other permits authorized to be issued for overweight loads, the Department of Transportation is authorized to issue annual special permits for vehicles transporting heavy equipment with a nondivisible load having a gross vehicle weight of one hundred fifty thousand (150,000) pounds or less. The permit shall be issued for the pulling unit. The department may establish rules and regulations for the issuance and transference of the permit from one pulling unit to another. The fee for such permit shall be Four Thousand Five Hundred Dollars ($4,500.00) and the permit shall expire one (1)

year from the beginning movement date. Movements under such permit shall be made under such safety and equipment restrictions as the department may establish. The department shall specify the routes over which such movements may be conducted.

(2) In addition to other permits to be used for overweight and oversized loads, the Department of Transportation is authorized to issue annual special permits for the transporting of forestry-related equipment to vehicles having a gross vehicle weight of not more than one hundred thousand (100,000) pounds and dimensions of not more than fourteen (14) feet wide and fourteen (14) feet high. The permit, to be referred to as the "Forestry Permit," shall be issued for each vehicle that serves as a pulling unit, at a fee of Two Hundred Dollars ($200.00) per unit annually. The Forestry Permit shall be available for the hauling of equipment or machinery customary and necessary for timber-harvesting activities, including, but not limited to, bulldozers, knuckleboom loaders, cutters, skidders, track machines of the same kind, mulchers and other machines used for silvicultural activities. The Forestry Permit shall be available to those hauling the subject equipment to and from timber harvest operations, as well as those hauling the equipment to and from a truck repair shop or equipment service center.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2722

Description: Chronic wasting disease; require testing of white-tailed deer harvested in enclosures, and designate Class I and II violations.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(S)	Referred To Wildlife, Fisheries and Parks
2	02/20	(S)	Title Suff Do Pass
3	03/10	(S)	Passed {Vote}
4	03/11	(S)	Transmitted To House
5	03/25	(H)	Referred To Wildlife, Fisheries and Parks
6	05/27	(H)	Title Suff Do Pass
7	05/28	(H)	Passed {Vote}
8	05/29	(H)	Returned For Enrolling
9	06/03	(S)	Enrolled Bill Signed
10	06/03	(H)	Enrolled Bill Signed
11	06/10		Approved by Governor

Code Section: A 049-0001-0029, A 049-0007-0058.1, A 049-0007-0058.2

----- Additional Information -----

Senate Committee: Wildlife, Fisheries and Parks
House Committee: Wildlife, Fisheries and Parks

Principal Author: Whaley

Title: AN ACT TO CREATE A NEW SECTION IN TITLE 49, CHAPTER 7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE TESTING OF WHITE-TAILED DEER HARVESTED WITHIN ANY ENCLOSURE; TO DESIGNATE A FIRST VIOLATION OF THIS REQUIREMENT AS A CLASS II VIOLATION, AND SUBSEQUENT VIOLATIONS AS CLASS I VIOLATIONS; TO AMEND SECTIONS 49-1-29, 49-7-58.1 AND 49-7-58.2, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI SB 2722

MISSISSIPPI LEGISLATURE — REGULAR SESSION 2020

By: Senator(s) Whaley

To: Wildlife, Fisheries and Parks

SENATE BILL NO. 2722

AN ACT TO CREATE A NEW SECTION IN TITLE 49, CHAPTER 7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE TESTING OF WHITE-TAILED DEER HARVESTED WITHIN ANY ENCLOSURE; TO DESIGNATE A FIRST VIOLATION OF THIS REQUIREMENT AS A CLASS II VIOLATION, AND SUBSEQUENT VIOLATIONS AS CLASS I VIOLATIONS; TO AMEND SECTIONS 49-1-29, 49-7-58.1 AND 49-7-58.2, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The chronic wasting disease (CWD) testing of white-tailed deer harvested within any enclosure is required by law.

(2) A first violation of subsection (1) of this section is a Class II violation and is punishable as provided in Section 49-7-143. Subsequent violations are Class I violations and are punishable as provided in Section 49-7-141.

SECTION 2. Section 49-1-29, Mississippi Code of 1972, is amended as follows:

49-1-29. The commission may promulgate rules and regulations, inaugurate studies and surveys, and establish any services it deems necessary to carry out wildlife laws. A

violation of any rules or regulations promulgated by the commission shall constitute a misdemeanor and shall be punished as provided in Section 49-7-101.

The executive director shall have authority with commission approval:

(a) To close or shorten the open season as prescribed by law in cases of urgent emergency on any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians, in any locality, when it finds after investigation and public review that the action is reasonably necessary to secure the perpetuation of any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians and to maintain an adequate supply in the affected area. The statutes shall continue in full force and effect, except as restricted and limited by the rules and regulations promulgated by the commission.

(b) To designate wildlife refuges, with the consent of the property owner or owners, in any localities it finds necessary to secure perpetuation of any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians and to maintain an adequate supply for the purpose of providing a safe retreat where the animals may rest and replenish adjacent hunting, trapping or fishing grounds or waters, and to approve land suitable for such purposes as eligible for the income tax credit authorized under Section 27-7-22.22.

(c) To acquire and hold for the state by purchase, condemnation, lease, or agreement as authorized from time to time by the Legislature, and to receive by gifts or devise, lands or water suitable for fish habitats, game and bird habitats, state parks, access sites, wildlife refuges, or for public shooting, trapping or fishing grounds or waters, to provide areas on which any citizen may hunt, trap or fish under any special regulations as the commission may prescribe, and to approve lands suitable for such purposes as eligible for the income tax credit authorized under Section 27-7-22.22.

(d) To extend and consolidate lands or waters suitable for the above purposes by exchange of lands or waters under its jurisdiction.

(e) To capture, propagate, transport, sell or exchange any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians needed for stocking or restocking any lands or waters of the state.

(f) To enter into cooperative agreements with persons, firms, corporations or governmental agencies for purposes consistent with this chapter.

(g) To regulate the burning of rubbish, slashings and marshes or other areas it may find reasonably necessary to reduce the danger of destructive fires.

(h) To conduct research in improved wildlife and fisheries conservation methods and to disseminate information to

the residents of the state through the schools, public media and other publications.

(i) To have exclusive charge and control of the propagation and distribution of wild birds, animals, reptiles, fish and amphibians, the conduct and control of hatcheries, biological stations and game and fur farms owned or acquired by the state; to expend for the protection, propagation or preservation of game birds, game or fur-bearing animals, reptiles, fish and amphibians all funds of the state acquired for this purpose arising from licenses, gifts or otherwise; and shall have charge of the enforcement of all wildlife laws.

(j) To grant permits and provide regulations for field trials and dog trainers.

(k) To prohibit and to regulate the taking of nongame gross fish, except minnows.

(l) To enter into agreements with landowners to trap and purchase quail on the premises of the landowner and to provide for the distribution of quail.

(m) To operate or lease to third persons concessions or other rights or privileges on lakes owned or leased by the department. Owners of land adjoining land owned or leased by the department shall have priority to the concessions or rights or privileges, if the owners meet the qualifications established by the commission.

(n) To implement a beaver control program and to charge fees, upon the recommendation of the Beaver Control Advisory Board, to landowners participating in the beaver control program described in Section 49-7-201.

(o) To apply for, receive and expend any federal, state or local funds, contributions or funds from any other source for the purpose of beaver control or eradication.

(p) To require the department to divide the districts into zones if necessary, and periodically survey the districts or zones to obtain information that is necessary to properly determine the population and allowable harvest limits of wildlife within the district or zone.

(q) To * * * grant wildlife personnel authority to access the property and depopulate white-tailed deer within an enclosure where Chronic Wasting Disease (CWD) has been diagnosed; and to grant wildlife personnel authority to access the property and utilize lethal collection methods to obtain tissue samples for testing where CWD has been diagnosed within five (5) miles of the enclosure.

SECTION 3. Section 49-7-58.1, Mississippi Code of 1972, is amended as follows:

49-7-58.1. (1) The owner of any enclosure containing white-tailed deer that prevents the free egress of white-tailed deer from the enclosed area shall notify and register with the Department of Wildlife, Fisheries and Parks. The person shall

give his name, the location of the enclosure, the acreage within the enclosure, and whether any deer have been imported into the state and placed in the enclosure, and any other information required by the Commissioner on Wildlife, Fisheries and Parks.

(2) Persons who constructed an enclosure prior to July 1, 2003, shall have until January 1, 2004, to notify and provide the information required under this section. The person shall use acceptable hunting and wildlife management practices as may be determined by the department.

(3) The owner of such an enclosure shall comply with any testing of white-tailed deer harvested within the enclosure as * * * required by * * * Section 1 of this act. If chronic wasting disease is diagnosed within five (5) miles of the enclosure, the owner of such enclosure shall allow department personnel to enter the enclosure to utilize lethal collection methods to obtain tissue samples for testing. If chronic wasting disease is diagnosed within the enclosure, the owner shall allow department personnel to enter the enclosure and depopulate the white-tailed deer within the enclosure.

(4) A violation of this section is a Class I violation and is punishable as provided in Section 49-7-141.

SECTION 4. Section 49-7-58.2, Mississippi Code of 1972, is amended as follows:

49-7-58.2. (1) The Department of Wildlife, Fisheries and Parks shall develop and implement a program for inspecting,

monitoring, testing and preventing chronic wasting disease. * * * If chronic wasting disease is diagnosed in white-tailed deer within an enclosure, the department is authorized to enter the enclosure and depopulate the white-tailed deer within the enclosure. If chronic wasting disease is diagnosed within five (5) miles of the enclosure, the department is authorized to enter the enclosure and utilize lethal collection methods to obtain tissue samples.

(2) If a live test for chronic wasting disease is developed, the department is authorized to conduct such tests on white-tailed deer within any enclosure.

SECTION 5. Section 1 of this act shall be codified in Title 49, Chapter 7, Mississippi Code of 1972.

SECTION 6. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2723

Description: Commission on WFP; allow to extend open seasons ending Friday until 30 minutes after sunset on Sunday.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Wildlife, Fisheries and Parks
2	02/20	(S) Title Suff Do Pass Comm Sub
3	03/04	(S) Committee Substitute Adopted
4	03/04	(S) Passed {Vote}
5	03/05	(S) Transmitted To House
6	03/25	(H) Referred To Wildlife, Fisheries and Parks
7	05/27	(H) Title Suff Do Pass
8	05/28	(H) Passed {Vote}
9	05/29	(H) Returned For Enrolling
10	06/03	(S) Enrolled Bill Signed
11	06/03	(H) Enrolled Bill Signed
12	06/10	Approved by Governor

Code Section: A 049-0007-0031, A 049-0007-0031.2, A 049-0007-0031.3, A 049-0007-0031.4

----- Additional Information -----

Senate Committee: Wildlife, Fisheries and Parks
House Committee: Wildlife, Fisheries and Parks

Principal Author: Michel
Additional Authors: Whaley, Butler

Title: AN ACT TO AMEND SECTION 49-7-31, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS TO EXTEND THE OPEN SEASON ON DEER, WHEN IT ENDS ON A FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; TO AMEND SECTION 49-7-31.2, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION TO EXTEND

THE OPEN SEASONS ON BOBWHITE QUAIL AND WILD TURKEY, WHEN THEY END ON FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; TO AMEND SECTION 49-7-31.3, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION TO EXTEND THE OPEN SEASONS ON SQUIRREL AND RABBITS, WHEN THEY END ON FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; TO AMEND SECTION 49-7-31.4, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION TO EXTEND THE OPEN SEASON ON FUR-BEARING ANIMALS, INCLUDING ANY ADDITIONAL OPEN SEASON ON RACCOON, WHEN IT ENDS ON A FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; AND FOR RELATED PURPOSES.

2020 GENERAL LAWS OF MISSISSIPPI SB 2723

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Michel, Whaley, Butler

To: Wildlife, Fisheries and Parks

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2723

AN ACT TO AMEND SECTION 49-7-31, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS TO EXTEND THE OPEN SEASON ON DEER, WHEN IT ENDS ON A FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; TO AMEND SECTION 49-7-31.2, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION TO EXTEND THE OPEN SEASONS ON BOBWHITE QUAIL AND WILD TURKEY, WHEN THEY END ON FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; TO AMEND SECTION 49-7-31.3, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION TO EXTEND THE OPEN SEASONS ON SQUIRREL AND RABBITS, WHEN THEY END ON FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; TO AMEND SECTION 49-7-31.4, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSION TO EXTEND THE OPEN SEASON ON FUR-BEARING ANIMALS, INCLUDING ANY ADDITIONAL OPEN SEASON ON RACCOON, WHEN IT ENDS ON A FRIDAY, TO 30 MINUTES AFTER SUNSET ON THE FOLLOWING SUNDAY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-7-31, Mississippi Code of 1972, is amended as follows:

49-7-31. (1) The open season on deer shall be as follows:

(a) With bow and arrow: October 1 through the Friday prior to Thanksgiving.

(b) With guns and with dogs: from the Saturday prior to Thanksgiving through December 1.

(c) With primitive weapons and without dogs: December 2 through December 15.

(d) With guns and without dogs: December 16 through December 23. However, the commission may allow hunting statewide or in specific areas with any legal weapon which it may designate without dogs after the end of the last season for hunting deer with guns and with dogs, but the season with legal designated weapons and without dogs shall not extend beyond January 31.

(e) The commission shall establish an extended season with primitive weapons and bow and arrow without dogs from February 1 through February 15 for the area south of U.S. Highway 84 and east of Mississippi Highway 35 only for legal bucks. Any antlered deer taken in this area during any open season under this section must be a legal buck as defined in this paragraph. For purposes of this paragraph, the term "legal buck" means a deer with antlers of four (4) points or more with a minimum inside spread of ten (10) inches or a minimum main beam length of thirteen (13) inches. The commission may regulate the taking of deer with antlers of four (4) points or less under this paragraph for the proper management of antlered deer. The commission may delay the opening date and change the length of bow and arrow season in * * * paragraph (a) in this area.

(f) With guns and with dogs: December 24 through a date fixed by the commission that will provide a total of thirty-nine (39) days of hunting deer with guns and with dogs when

added to the number of days provided for hunting deer with guns and with dogs in paragraph (b).

(g) When the open season on deer ends on a Friday, the commission shall have the authority to extend the season until thirty (30) minutes after sunset on the following Sunday.

(2) The commission may set and regulate the deer seasons on wildlife management areas which it administers.

(3) (a) The commission may allow the harvesting of antlerless deer in the districts or zones upon the recommendation of the executive director based upon good and substantial quantitative data and research evaluations that demonstrate that the harvesting is necessary to properly manage the herd.

(b) The commission, only upon the recommendation of the executive director, may allow the harvesting of antlerless deer during the deer season with guns and with dogs by a majority vote of the commission.

(c) Nothing in this subsection prohibits the harvesting of either-sex deer by landowners or leaseholders on private lands under the deer management assistance program prescribed or approved by the executive director.

(4) The commission may provide a special permit for the harvesting of deer when they are depredating and destroying crops. The department shall supervise the harvesting and provide for the salvaging of the meat of the animals. The commission may authorize the department to assist any farmer in this state, who

sustains crop damage by wildlife, in eradication of the problem wildlife.

(5) (a) During any open season on deer with primitive weapons after November 30, a person may use any legal weapon of choice on private lands only, if the person is:

(i) The title owner of the land;

(ii) The lessee of the hunting rights on the land;

(iii) A member of a hunting club leasing the hunting rights on the land; or

(iv) A guest of a person specified in subparagraph (i), (ii) or (iii).

(b) If the person is required to have a hunting license, the person must have a primitive weapon license, Sportsman's License or a Lifetime Sportsman's License.

SECTION 2. Section 49-7-31.2, Mississippi Code of 1972, is amended as follows:

49-7-31.2. The open season for game birds shall be as follows:

(a) On bobwhite quail: The season shall open on Thanksgiving Day and run through the first Saturday in March next following. When the open season ends on a Friday, the commission shall have the authority to extend the season until thirty (30) minutes after sunset on the following Sunday.

(b) On pheasant: There shall be no open season on pheasant.

(c) On wild turkey: The commission may fix the spring season between March 1 and May 15. In addition, the commission may fix special fall either-sex seasons. When the open season ends on a Friday, the commission shall have the authority to extend the season until thirty (30) minutes after sunset on the following Sunday.

(d) On migratory birds: The open season for migratory birds shall be the season prescribed by the Federal Migratory Bird Treaty regulations.

SECTION 3. Section 49-7-31.3, Mississippi Code of 1972, is amended as follows:

49-7-31.3. The open season on game animals except deer shall be as follows:

(a) On squirrel: The season shall open on October 1 and run through February 28 next following. In addition, the commission is authorized to set a season that shall open not earlier than May 15 and run not later than June 1 next following. When the open season ends on a Friday, the commission shall have the authority to extend the season until thirty (30) minutes after sunset on the following Sunday.

(b) On rabbits: The season shall open on the Saturday nearest October 15 and run through February 28 next following, and when rabbits are depredating or destroying crops, the owner of the crops or his tenants may shoot the rabbits with guns. When the open season ends on a Friday, the commission shall have the

authority to extend the season until thirty (30) minutes after sunset on the following Sunday.

SECTION 4. Section 49-7-31.4, Mississippi Code of 1972, is amended as follows:

49-7-31.4. (1) The commission may fix the open season on fur-bearing animals between November 1 and March 1 next following and fix the open season for hunting opossums, raccoons and bobcats with dogs and guns by licensed hunters from October 1 to February 28 next following; but raccoons and bobcats may be run, hunted, chased or pursued throughout the year with dogs by licensed hunters.

(2) The commission may establish an additional open season on raccoon from July 1 through October 1, and the bag limit on raccoon during the additional open season shall be one (1) per party, per night.

(3) When the open season on fur-bearing animals, including any additional open season on raccoon, ends on a Friday, the commission shall have the authority to extend the season until thirty (30) minutes after sunset on the following Sunday.

SECTION 5. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2830

Description: Right-to-Try Act; revise definitions to include traumatic injury and adult autologous mesenchymal stem cell.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/17	(S)	Referred To Public Health and Welfare
2	03/03	(S)	Title Suff Do Pass
3	03/06	(S)	Passed {Vote}
4	03/09	(S)	Transmitted To House
5	03/25	(H)	Referred To Public Health and Human Services
6	06/03	(H)	Title Suff Do Pass
7	06/12	(H)	Passed {Vote}
8	06/15	(H)	Returned For Enrolling
9	06/19	(S)	Enrolled Bill Signed
10	06/19	(H)	Enrolled Bill Signed
11	06/25		Approved by Governor

Code Section: A 041-0131-0001

----- Additional Information -----

Senate Committee: Public Health and Welfare
House Committee: Public Health and Human Services

Principal Author: Harkins
Additional Authors: Jackson (11th), Jordan

Title: AN ACT TO AMEND SECTION 41-131-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "ELIGIBLE PATIENT" TO INCLUDE THOSE PATIENTS WITH A TRAUMATIC INJURY; TO REVISE THE DEFINITION OF "INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE" TO INCLUDE ADULT AUTOLOGOUS MESENCHYMAL STEM CELL; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Harkins, Jackson (11th), Jordan

To: Public Health and Welfare

SENATE BILL NO. 2830

AN ACT TO AMEND SECTION 41-131-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "ELIGIBLE PATIENT" TO INCLUDE THOSE PATIENTS WITH A TRAUMATIC INJURY; TO REVISE THE DEFINITION OF "INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE" TO INCLUDE ADULT AUTOLOGOUS MESENCHYMAL STEM CELL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-131-1, Mississippi Code of 1972, is amended as follows:

41-131-1. (1) This section shall be known and may be cited as the "Right-to-Try Act."

(2) For purposes of this section:

(a) "Eligible patient" means a person who meets all of the following requirements:

(i) Has a debilitating disability, traumatic injury, terminal illness or life-threatening illness that has not responded or cannot be treated with currently approved products;

(ii) Has considered all other treatment options currently approved by the United States Food and Drug

Administration and all relevant clinical trials conducted in this state;

(iii) Has received a prescription or recommendation from the person's physician for an adult autologous mesenchymal stem cell, investigational drug, biological product or device;

(iv) Has given written informed consent, which shall be at least as comprehensive as the consent used in clinical trials for the use of the adult autologous mesenchymal stem cell, investigational drug, biological product or device, or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian has given written informed consent on the patient's behalf; and

(v) Has documentation from the person's physician that the person has met all of the requirements of this subsection.

(b) "Adult autologous mesenchymal stem cell, investigational drug, biological product or device" means * * * an adult autologous mesenchymal stem cell, drug, biological product or device, any of which are used to treat the patient's disability, traumatic injury or illness, and the use of which has been either described in a United States Food and Drug Administration/National Institutes of Health (FDA/NIH) approved-protocol or study, or approved by an institutional review board (IRB), or successfully completed a safety study. The drug,

product or device must be produced in a manner consistent with the quality standards of an adult autologous mesenchymal stem cell, investigational drug, biological product or device in the United States (i.e., standards required by an FDA-approved trial) and must show prior evidence of safe usage in humans in the United States or other countries. The adult autologous mesenchymal stem cell, investigational drug, biological product or device must have successfully completed phase one of a clinical trial but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial. The term shall not include Schedule I controlled substances.

(c) "Terminal illness" means a disease that without life-sustaining procedures will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely.

(d) "Written informed consent" means a written document that is:

(i) Signed by the:

1. Patient;

2. Parent, if the patient is a minor;

3. Legal guardian; or

4. Patient advocate designated by the patient under the Uniform Health-Care Decisions Act, Section 41-41-201 et seq.; and

(ii) Attested to by the patient's physician and a witness and that, at a minimum, includes all of the following:

1. An explanation of the currently approved products and treatments for the disease or condition from which the patient suffers;

2. An attestation that the patient concurs with his or her physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life;

3. Clear identification of the specific proposed adult autologous mesenchymal stem cell, investigational drug, biological product or device that the patient is seeking to use;

4. A description of the potentially best and worst outcomes of using the adult autologous mesenchymal stem cell, investigational drug, biological product or device and a realistic description of the most likely outcome. The description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment. The description shall be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition;

5. A statement that the patient's health plan or third-party administrator and provider are not obligated or required to pay for any cost of any adult autologous mesenchymal

stem cell, investigational drug, biological product or device or for any care or treatments consequent to the use of the adult autologous mesenchymal stem cell, investigational drug, biological product or device, unless they are specifically required to do so by law or contract;

6. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment with the adult autologous mesenchymal stem cell, investigational drug, biological product or device and that care may be reinstated if this treatment ends and the patient meets hospice eligibility requirements; and

7. A statement that the patient understands that he or she is liable for all expenses consequent to the use of the adult autologous mesenchymal stem cell, investigational drug, biological product or device and that this liability extends to the patient's estate, unless a contract between the patient and the manufacturer of the adult autologous mesenchymal stem cell, drug, biological product or device states otherwise. The patient's health plan or third-party administrator are not liable for any outstanding debt related to the treatment or lack of insurance consequent to the use of the adult autologous mesenchymal stem cell, investigational drug, biological product or device.

(3) A manufacturer of an adult autologous mesenchymal stem cell, investigational drug, biological product or device may make

available the manufacturer's adult autologous mesenchymal stem cell, investigational drug, biological product or device to eligible patients under this section. This section does not require that a manufacturer make available an adult autologous mesenchymal stem cell, investigational drug, biological product or device to an eligible patient. A manufacturer may:

(a) Provide an adult autologous mesenchymal stem cell, investigational drug, biological product or device to an eligible patient without receiving compensation; or

(b) Require an eligible patient to pay the costs of or associated with the manufacture of the adult autologous mesenchymal stem cell, investigational drug, biological product or device.

(4) This section does not require a health care insurer to provide coverage for the cost of any adult autologous mesenchymal stem cell, investigational drug, biological product or device. However, a health care insurer may provide coverage for an adult autologous mesenchymal stem cell, investigational drug, biological product or device.

(5) This section does not require the Mississippi Department of Corrections or any other governmental agency to provide coverage for the cost of any investigational drug, biological product or device.

(6) This section does not require a licensed hospital or nursing home to provide new or additional services, unless approved by the hospital or facility.

(7) This section does not require a licensed physician to offer any adult autologous mesenchymal stem cell, investigational drug, biological product or device.

(8) Notwithstanding any other provision of law to the contrary, no state agency or regulatory board shall revoke, fail to renew, or take any other action against a physician's license under Section 73-25-1 et seq., or against a pharmacist's license under Section 73-21-71 et seq., based solely on the physician's or pharmacist's recommendation to an eligible patient regarding prescription for or treatment with an adult autologous mesenchymal stem cell, investigational drug, biological product or device. Action against a health care provider's Medicare certification based solely on the health care provider's recommendation that a patient have access to an adult autologous mesenchymal stem cell, investigational drug, biological product or device is prohibited.

(9) If the clinical trial is closed due to lack of efficacy or toxicity, the drug shall not be offered. If notice is given on an adult autologous mesenchymal stem cell, investigational drug, product or device taken by a patient outside of a clinical trial, the pharmaceutical company or patient's physician shall notify the patient of the information from the safety committee of the clinical trial.

(10) Except in the case of gross negligence or willful misconduct, the patient's health plan, third-party administrator, or any person who manufactures, imports, distributes, prescribes, dispenses, compounds or administers an adult autologous mesenchymal stem cell, investigational drug or device to an eligible patient with a terminal illness in accordance with this section shall not be liable in any action under state law for any loss, damage or injury arising out of, relating to, or resulting from:

(a) The design, development, clinical testing and investigation, manufacturing, labeling, distribution, sale, purchase, donation, dispensing, compounding, prescription, administration, or use of the drug or device; or

(b) The safety or effectiveness of the drug or device.

The immunity provided under this subsection (10) is fully applicable to the owner of a hospital or other licensed health care facility rendering services to an eligible patient where the investigational drug is used or purchased only with regard to the use of the adult autologous mesenchymal stem cell, investigational drug, biological product or device at the facility.

(11) If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2850

Description: Small estates; clarify muniment of title and affidavit of succession.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Judiciary, Division A
2	02/27	(S) Title Suff Do Pass Comm Sub
3	03/11	(S) Committee Substitute Adopted
4	03/11	(S) Passed {Vote}
5	03/12	(S) Transmitted To House
6	03/25	(H) Referred To Judiciary A
7	06/03	(H) Title Suff Do Pass
8	06/11	(H) Passed {Vote}
9	06/12	(H) Returned For Enrolling
10	06/17	(S) Enrolled Bill Signed
11	06/17	(H) Enrolled Bill Signed
12	06/23	Approved by Governor

Code Section: A 091-0001-0001, A 091-0005-0035, A 091-0007-0001, A 091-0007-0033, A 091-0017-0412, A 091-0017-0501, A 091-0007-0322

----- Additional Information -----

Senate Committee: Judiciary, Division A
House Committee: Judiciary A

Principal Author: Doty
Additional Authors: Jackson (11th)

Title: AN ACT TO AMEND SECTIONS 91-1-1, 91-5-35, 91-7-1, 91-7-33, 91-17-412 AND 91-17-501, MISSISSIPPI CODE OF 1972, TO ALLOW A WILL TO BE ADMITTED TO PROBATE AS MUNIMENT OF TITLE ONLY BY FILING SIGNED AND SWORN PETITIONS WITHOUT NECESSITY OF ADMINISTRATION; TO AMEND SECTION 91-7-322, MISSISSIPPI CODE OF 1972, TO REVISE THE THRESHOLD UNDER WHICH PAYMENT OF PERSONAL PROPERTY CAN BE MADE UPON AFFIDAVIT OF SUCCESSOR; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Doty, Jackson (11th) To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2850

AN ACT TO AMEND SECTIONS 91-1-1, 91-5-35, 91-7-1, 91-7-33, 91-17-412 AND 91-17-501, MISSISSIPPI CODE OF 1972, TO ALLOW A WILL TO BE ADMITTED TO PROBATE AS MUNIMENT OF TITLE ONLY BY FILING SIGNED AND SWORN PETITIONS WITHOUT NECESSITY OF ADMINISTRATION; TO AMEND SECTION 91-7-322, MISSISSIPPI CODE OF 1972, TO REVISE THE THRESHOLD UNDER WHICH PAYMENT OF PERSONAL PROPERTY CAN BE MADE UPON AFFIDAVIT OF SUCCESSOR; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 91-1-1, Mississippi Code of 1972, is amended as follows:

91-1-1. * * * **Territorial Application.** This chapter applies to the property of decedents domiciled in this state and real property of nonresidents located in this state.

SECTION 2. Section 91-5-35, Mississippi Code of 1972, is amended as follows:

91-5-35. (1) When a person dies testate owning at the time of death real property in the State of Mississippi and his will purports to devise such realty, then said will may be admitted to probate, as a muniment of title only, by petition signed and sworn * * *, without the necessity of administration or the

appointment of an executor or administrator with the will annexed, provided it be shown by said petition that:

(a) The value of the decedent's * * * probate estate in the State of Mississippi at the time of his or her death, exclusive of any interest in real property and exempt property set forth in Section 91-7-117, did not exceed the sum * * * set forth in Section 91-7-322; and

(b) All known debts of the decedent and his estate have been paid, including estate and income taxes, if any.

(2) * * * The petition shall be signed and sworn by the personal representative, including (a) an executor, (b) an administrator with the will annexed, or (c) other personal representative serving in a foreign jurisdiction. If there is no such serving executor, administrator with the will annexed, or other personal representative, then it shall be signed and sworn by (i) the spouse of the decedent, if then living, and (ii) the devisees of the Mississippi real property, whether specific or residuary, but excluding persons holding mere contingent remainder interests in the real property.

(3) The petition may be signed for and on behalf of the spouse of the decedent, or a beneficiary under the will of the decedent, by a person acting in a representative capacity in accordance with Section 91-8-303.

(* * *4) The probate of a will under this section shall in no way affect the rights of any interested party to petition for a

formal administration of the estate or to contest the will as provided by Section 91-7-23, Mississippi Code of 1972, or the right of anyone desiring to contest a will presented for probate as provided by Section 91-7-21, or as otherwise provided by law.

(* * *5) This section shall apply to wills admitted to probate from and after July 1, * * * 2020, notwithstanding that the testator or testatrix may have died on or before July 1, * * * 2020.

SECTION 3. Section 91-7-1, Mississippi Code of 1972, is amended as follows:

91-7-1. Wills shall be proved in and letters testamentary thereon granted by the chancery court of the county in which the testator had a fixed place of residence. If he had no fixed place of residence and land be devised in the will, it shall be proved in and letters granted by the chancery court of the county where the land, or some part thereof, is situated. * * *

SECTION 4. Section 91-7-33, Mississippi Code of 1972, is amended as follows:

91-7-33. Authenticated copies of wills proven according to the laws of any of the states of the union, of the territories, of the District of Columbia, or any foreign country, and affecting or disposing of real property within this state, may be admitted to probate in the proper court. Such will may be contested as the original might have been if it had been executed in this state, or the original will may be proven and admitted to record here.

SECTION 5. Section 91-17-412, Mississippi Code of 1972, is amended as follows:

91-17-412. (a) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts: * * * first to principal, based upon the volume of the timber at the time of transfer to the trust or decedent's estate. The balance shall be allocated eighty percent (80%) to income and the balance to principal.

(b) In determining net receipts to be allocated pursuant to subsection (a), a trustee shall deduct * * *, including, but not limited to, the following expenses related to the sale of timber and related products from gross receipts:

(1) Management expenses;

(2) Legal and accounting expenses and fees;

(3) Sales commissions;

(4) Reforestation expenses; and

(5) Any necessary timber stand improvement expense that is recognized and accepted as good forest management practice at the time of sale.

(c) This chapter applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

(d) If a trust owns an interest in timberland on January 1, 2013, the trustee may allocate net receipts from the sale of

timber and related products as provided in this chapter or in the manner used by the trustee before January 1, 2013. If the trust acquires an interest in timberland after January 1, 2013, the trustee shall allocate net receipts from the sale of timber and related products as provided in this chapter.

SECTION 6. Section 91-17-501, Mississippi Code of 1972, is amended as follows:

91-17-501. A trustee shall make the following disbursements from income to the extent that they are not disbursements to which Section 91-17-201(2)(B) or (C) applies:

(1) One-half (1/2) of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;

(2) One-half (1/2) of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

With regard to subsections (1) and (2) of this section, a trustee may allocate more or less if income or principal is insufficient to satisfy this allocation during the year.

SECTION 7. Section 91-7-322, Mississippi Code of 1972, is amended as follows:

91-7-322. (1) Except as may be otherwise provided by Sections 81-5-63, 81-12-135, 81-12-137 and 91-7-323, at any time after thirty (30) days from the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment when due of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent, as defined herein, or in a manner as directed by the successor, upon being presented an affidavit made by the successor stating:

(a) That the value of the entire probate estate of the decedent, wherever located, excluding all liens and encumbrances thereon, does not exceed * * * Seventy-five Thousand Dollars ($75,000.00);

(b) That at least thirty (30) days have elapsed since the death of the decedent;

(c) That no application or petition for the appointment of a personal representative of the decedent is pending, nor has a

personal representative of the decedent been appointed in any jurisdiction; * * *

(d) The facts of relationship establishing the affiant as a successor of the decedent * * *;

(e) Directing the manner of distribution of the debt or property; and

(f) Acknowledging the successor's obligation to distribute the debt or property to those having a superior right to same.

(2) For the purposes of this section, "successor" means:

(a) The decedent's spouse;

(b) If there is no surviving spouse of the decedent, then any child of the decedent;

(c) If there is no surviving spouse or children of the decedent, then to * * * any grandchild of the decedent; or

(d) If there is no surviving spouse, children or * * * grandchildren of the decedent, then either parent or any siblings of the decedent * * *.

* * *

(3) Any minor or incapacitated adult who is a successor of the decedent may be represented by a guardian, natural or appointed, conservator, custodian, or other personal representative, as appointed by the court or by power of attorney.

(4) Except as otherwise provided in Sections 93-20-209 and 93-20-431, the representative of a minor or incapacitated adult as

defined in subsection (3) of this section shall receive any property or payments from the decedent's estate for the sole use and benefit of said minor or incapacitated adult.

(5) The successor of a decedent, upon complying with the provisions of subsection (1) of this section, shall be empowered to negotiate, transfer ownership and exercise all other incidents of ownership with respect to the personal property and instruments described in subsection (1) of this section.

(6) Any person paying, delivering, transferring or issuing personal property or the evidence thereof pursuant to the provisions of subsection (1) of this section shall be discharged and released to the same extent as if such person had dealt with a personal representative of the decedent. Such person shall not be required to see to the proper application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered, in accordance with the provisions of subsection (1) of this section, refuses to pay, deliver, transfer or issue any personal property or evidence thereof to the successor, such property or evidence thereof may be recovered or its payment, delivery, transfer or issuance compelled upon proof of the successor's right in a proceeding brought in chancery court for such purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made shall be answerable and accountable to the personal representative

of the estate, if any, or to any other person having a superior right.

SECTION 8. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2874

Description: Guardianships and conservatorships; revise GAP Act.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	02/17	(S) Referred To Judiciary, Division A
2	02/27	(S) Title Suff Do Pass
3	03/11	(S) Passed {Vote}
4	03/12	(S) Transmitted To House
5	03/25	(H) Referred To Judiciary A
6	06/03	(H) Title Suff Do Pass
7	06/11	(H) Passed {Vote}
8	06/12	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 093-0020-0102, A 093-0020-0104, A 093-0020-0105, A 093-0020-0107, A 093-0020-0108, A 093-0020-0113, A 093-0020-0116, A 093-0020-0118, A 093-0020-0125, A 093-0020-0202, A 093-0020-0203, A 093-0020-0206, A 093-0020-0207, A 093-0020-0301, A 093-0020-0302, A 093-0020-0303, A 093-0020-0306, A 093-0020-0309, A 093-0020-0310, A 093-0020-0311, A 093-0020-0403, A 093-0020-0405, A 093-0020-0407, A 093-0020-0408, A 093-0020-0411, A 093-0020-0413, A 093-0020-0431, RP 093-0014-0401, RP 093-0014-0402, RP 093-0014-0403, A 093-0020-0201

----- Additional Information -----

Senate Committee: Judiciary, Division A
House Committee: Judiciary A

Principal Author: Doty
Additional Authors: Fillingane, Hopson, McCaughn

Title: AN ACT TO AMEND SECTION 93-20-102, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS PERTAINING TO GUARDIANSHIPS AND CONSERVATORSHIPS; TO AMEND SECTION 93-20-104, MISSISSIPPI CODE OF 1972, TO CLARIFY JURISDICTION UNDER THE ACT WHEN PROCEEDINGS

MAY BE INSTITUTED OR ONGOING IN A DIFFERENT COURT; TO AMEND SECTION 93-20-105, MISSISSIPPI CODE OF 1972, TO CLARIFY THE REQUIRED GIVING OF NOTICE AND SUMMONS UNDER THE ACT; TO AMEND SECTIONS 93-20-107 AND 93-20-108, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COMBINING PROCEEDINGS AND LETTERS OF GUARDIANSHIP AND CONSERVATORSHIP WHEN THE GUARDIAN AND CONSERVATOR ARE THE SAME PERSON AND TO REQUIRE SUBSCRIPTION TO AN OATH BY A FIDUCIARY; TO AMEND SECTION 93-20-113, MISSISSIPPI CODE OF 1972, TO CLARIFY REQUIREMENTS REGARDING NOTICE AND SUMMONS; TO AMEND SECTION 93-20-116, MISSISSIPPI CODE OF 1972, TO CONFORM INTERNAL REFERENCES; TO AMEND SECTION 93-20-118, MISSISSIPPI CODE OF 1972, TO INCLUDE PAYMENT OF ATTORNEY'S FEES IN CASES WHERE A PETITION IS FILED IN BAD FAITH; TO AMEND SECTION 93-20-125, MISSISSIPPI CODE OF 1972, TO REVISE TRANSITION AND CONFLICT OF LAW PROVISIONS; TO AMEND SECTION 93-20-201, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COURT TO DISPENSE WITH LEGAL REPRESENTATION IF THAT WOULD IMPOSE AN UNDUE BURDEN ON THE WARD'S ESTATE; TO AMEND SECTION 93-20-202, MISSISSIPPI CODE OF 1972, TO REVISE THE PARTIES GIVEN NOTICE OF A PETITION FOR APPOINTMENT OF A GUARDIAN OF A MINOR; TO AMEND SECTION 93-20-203, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE AND SUMMONS; TO AMEND SECTION 93-20-206, MISSISSIPPI CODE OF 1972, TO CLARIFY THE HEARING REQUIRED BEFORE APPOINTMENT OF A GUARDIAN FOR A MINOR AND NOTICE OF SUBSEQUENT PROCEEDINGS; TO AMEND SECTION 93-20-207, MISSISSIPPI CODE OF 1972, TO CLARIFY NOTICE AND SUMMONS; TO AMEND SECTION 93-20-301, MISSISSIPPI CODE OF 1972, TO CLARIFY THE POWERS GRANTED TO A GUARDIAN OF AN ADULT; TO AMEND SECTION 93-20-302, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COURT TO DISPENSE WITH LEGAL REPRESENTATION IF THAT WOULD IMPOSE AN UNDUE BURDEN ON THE WARD'S ESTATE; TO AMEND SECTION 93-20-303, MISSISSIPPI CODE OF 1972, TO CLARIFY THE HEARING REQUIRED BEFORE APPOINTMENT OF A GUARDIAN FOR AN ADULT AND NOTICE OF SUBSEQUENT PROCEEDINGS; TO AMEND SECTION 93-20-306, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONDENT'S RIGHTS AT A HEARING ON A PETITION TO APPOINT A GUARDIAN FOR AN ADULT; TO AMEND SECTION 93-20-309, MISSISSIPPI CODE OF 1972, TO CLARIFY THE NECESSITY OF SUMMONS GIVEN TO AN ADULT RESPONDENT; TO AMEND SECTION 93-20-310, MISSISSIPPI CODE OF 1972, TO CONFORM INTERNAL REFERENCES; TO AMEND SECTION 93-20-311, MISSISSIPPI CODE OF 1972, TO CLARIFY THE NECESSITY OF SUMMONS ISSUED FOR THE CONTINUATION OF AN EMERGENCY GUARDIANSHIP OF AN ADULT; TO AMEND SECTION 93-20-403, MISSISSIPPI CODE OF 1972, TO CLARIFY THE HEARING REQUIRED BEFORE APPOINTMENT OF A CONSERVATOR AND NOTICE OF SUBSEQUENT PROCEEDINGS; TO AMEND SECTION 93-20-405, MISSISSIPPI CODE OF 1972, TO CLARIFY THE APPOINTMENT AND ROLE OF A GUARDIAN AD LITEM; TO AMEND SECTION 93-20-407, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN PROFESSIONAL EXAMINATION OF A

MINOR IS REQUIRED BEFORE APPOINTMENT OF A CONSERVATOR; TO AMEND SECTION 93-20-408, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONDENT'S RIGHTS AT A HEARING ON A PETITION TO APPOINT A CONSERVATOR; TO AMEND SECTION 93-20-411, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN COSTS ARE NOT TO BE ASSESSED TO THE PETITIONER AND TO MAKE A TECHNICAL CORRECTION; TO AMEND SECTION 93-20-413, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT SUMMONS MUST ISSUE FOR THE CONTINUATION OF A CONSERVATORSHIP; TO AMEND SECTION 93-20-431, MISSISSIPPI CODE OF 1972, RELATING TO PAYMENT OF SETTLEMENT PROCEEDS WITHOUT APPOINTMENT OF A CONSERVATOR; TO REPEAL AS DUPLICATIVE SECTIONS 93-14-401, 92-14-402 AND 93-14-403, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE ARTICLE 4 OF THE UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT AND DEAL WITH THE REGISTRATION AND RECOGNITION OF FOREIGN ORDERS OF GUARDIANSHIP AND CONSERVATORSHIP; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Doty, Fillingane, Hopson, McCaughn

To: Judiciary, Division A

SENATE BILL NO. 2874

AN ACT TO AMEND SECTION 93-20-102, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS PERTAINING TO GUARDIANSHIPS AND CONSERVATORSHIPS; TO AMEND SECTION 93-20-104, MISSISSIPPI CODE OF 1972, TO CLARIFY JURISDICTION UNDER THE ACT WHEN PROCEEDINGS MAY BE INSTITUTED OR ONGOING IN A DIFFERENT COURT; TO AMEND SECTION 93-20-105, MISSISSIPPI CODE OF 1972, TO CLARIFY THE REQUIRED GIVING OF NOTICE AND SUMMONS UNDER THE ACT; TO AMEND SECTIONS 93-20-107 AND 93-20-108, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COMBINING PROCEEDINGS AND LETTERS OF GUARDIANSHIP AND CONSERVATORSHIP WHEN THE GUARDIAN AND CONSERVATOR ARE THE SAME PERSON AND TO REQUIRE SUBSCRIPTION TO AN OATH BY A FIDUCIARY; TO AMEND SECTION 93-20-113, MISSISSIPPI CODE OF 1972, TO CLARIFY REQUIREMENTS REGARDING NOTICE AND SUMMONS; TO AMEND SECTION 93-20-116, MISSISSIPPI CODE OF 1972, TO CONFORM INTERNAL REFERENCES; TO AMEND SECTION 93-20-118, MISSISSIPPI CODE OF 1972, TO INCLUDE PAYMENT OF ATTORNEY'S FEES IN CASES WHERE A PETITION IS FILED IN BAD FAITH; TO AMEND SECTION 93-20-125, MISSISSIPPI CODE OF 1972, TO REVISE TRANSITION AND CONFLICT OF LAW PROVISIONS; TO AMEND SECTION 93-20-201, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COURT TO DISPENSE WITH LEGAL REPRESENTATION IF THAT WOULD IMPOSE AN UNDUE BURDEN ON THE WARD'S ESTATE; TO AMEND SECTION 93-20-202, MISSISSIPPI CODE OF 1972, TO REVISE THE PARTIES GIVEN NOTICE OF A PETITION FOR APPOINTMENT OF A GUARDIAN OF A MINOR; TO AMEND SECTION 93-20-203, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE AND SUMMONS; TO AMEND SECTION 93-20-206, MISSISSIPPI CODE OF 1972, TO CLARIFY THE HEARING REQUIRED BEFORE APPOINTMENT OF A GUARDIAN FOR A MINOR AND NOTICE OF SUBSEQUENT PROCEEDINGS; TO AMEND SECTION 93-20-207, MISSISSIPPI CODE OF 1972, TO CLARIFY NOTICE AND SUMMONS; TO AMEND SECTION 93-20-301, MISSISSIPPI CODE OF 1972, TO CLARIFY THE POWERS GRANTED TO A GUARDIAN OF AN ADULT; TO AMEND SECTION 93-20-302, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COURT TO DISPENSE WITH LEGAL REPRESENTATION IF THAT WOULD IMPOSE AN UNDUE BURDEN ON THE WARD'S ESTATE; TO AMEND SECTION 93-20-303, MISSISSIPPI CODE OF 1972, TO CLARIFY THE HEARING

REQUIRED BEFORE APPOINTMENT OF A GUARDIAN FOR AN ADULT AND NOTICE OF SUBSEQUENT PROCEEDINGS; TO AMEND SECTION 93-20-306, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONDENT'S RIGHTS AT A HEARING ON A PETITION TO APPOINT A GUARDIAN FOR AN ADULT; TO AMEND SECTION 93-20-309, MISSISSIPPI CODE OF 1972, TO CLARIFY THE NECESSITY OF SUMMONS GIVEN TO AN ADULT RESPONDENT; TO AMEND SECTION 93-20-310, MISSISSIPPI CODE OF 1972, TO CONFORM INTERNAL REFERENCES; TO AMEND SECTION 93-20-311, MISSISSIPPI CODE OF 1972, TO CLARIFY THE NECESSITY OF SUMMONS ISSUED FOR THE CONTINUATION OF AN EMERGENCY GUARDIANSHIP OF AN ADULT; TO AMEND SECTION 93-20-403, MISSISSIPPI CODE OF 1972, TO CLARIFY THE HEARING REQUIRED BEFORE APPOINTMENT OF A CONSERVATOR AND NOTICE OF SUBSEQUENT PROCEEDINGS; TO AMEND SECTION 93-20-405, MISSISSIPPI CODE OF 1972, TO CLARIFY THE APPOINTMENT AND ROLE OF A GUARDIAN AD LITEM; TO AMEND SECTION 93-20-407, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN PROFESSIONAL EXAMINATION OF A MINOR IS REQUIRED BEFORE APPOINTMENT OF A CONSERVATOR; TO AMEND SECTION 93-20-408, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONDENT'S RIGHTS AT A HEARING ON A PETITION TO APPOINT A CONSERVATOR; TO AMEND SECTION 93-20-411, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN COSTS ARE NOT TO BE ASSESSED TO THE PETITIONER AND TO MAKE A TECHNICAL CORRECTION; TO AMEND SECTION 93-20-413, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT SUMMONS MUST ISSUE FOR THE CONTINUATION OF A CONSERVATORSHIP; TO AMEND SECTION 93-20-431, MISSISSIPPI CODE OF 1972, RELATING TO PAYMENT OF SETTLEMENT PROCEEDS WITHOUT APPOINTMENT OF A CONSERVATOR; TO REPEAL AS DUPLICATIVE SECTIONS 93-14-401, 92-14-402 AND 93-14-403, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE ARTICLE 4 OF THE UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT AND DEAL WITH THE REGISTRATION AND RECOGNITION OF FOREIGN ORDERS OF GUARDIANSHIP AND CONSERVATORSHIP; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 93-20-102, Mississippi Code of 1972, is amended as follows:

93-20-102. In this chapter:

(a) "Adult" means an individual at least twenty-one (21) years of age or an emancipated individual under twenty-one (21) years of age.

(b) "Claim" includes a claim against an individual or conservatorship estate, whether arising in contract, tort, or otherwise.

(c) "Conservator" means a person appointed by a court to make decisions with respect to the property or financial affairs of a ward. The term includes a co-conservator.

(d) "Conservatorship estate" means the property subject to conservatorship under this chapter.

(e) "Full conservatorship" means a conservatorship that grants the conservator all powers available under this chapter.

(f) "Full guardianship" means a guardianship that grants the guardian all powers available under this chapter.

(g) "Guardian" means a person appointed by the court to make decisions with respect to the personal affairs of the ward. The term includes a co-guardian but does not include a guardian ad litem.

(h) "Guardian ad litem" means a qualified person appointed by the court to inform the court about the ward, to protect the best interests of the ward, and to make recommendations to the court in the best interests of the ward.

(i) "Less restrictive alternative" means an approach to meeting an individual's needs which restricts fewer rights of the individual than would the appointment of a guardian or conservator in the discretion of the court.

(j) "Letters of guardianship or conservatorship" means a record issued by a court certifying a guardian's or conservator's authority to act.

(k) "Limited conservatorship" means a conservatorship that grants the conservator less than all powers available under this chapter, grants powers over only certain property, or otherwise restricts the powers of the conservator.

(l) "Limited guardianship" means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

(m) "Minor" means an unemancipated individual under twenty-one (21) years of age.

(n) "Notice" means any notice as provided by Rule 5 of the Mississippi Rules of Civil Procedure.

(* * *o) "Parent" does not include an individual whose parental rights have been terminated.

(* * *p) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(* * *q) "Property" includes tangible and intangible property.

(* * *r) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(* * *s) "Respondent" means an individual for whom appointment of a guardian or conservator is sought.

(* * *t) "Sign" means, with present intent to authenticate or adopt a record:

(i) To execute or adopt a tangible symbol; or

(ii) To attach to or logically associate with the record an electronic symbol, sound, or process.

(* * *u) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(v) "Summons" means any properly issued summons as provided by the Mississippi Rules of Civil Procedure.

(* * *w) "Ward" means an adult or minor for whom a guardian or conservator has been appointed under this chapter.

SECTION 2. Section 93-20-104, Mississippi Code of 1972, is amended as follows:

93-20-104. (1) Except to the extent jurisdiction is precluded by the Uniform Child Custody Jurisdiction and Enforcement Act (Title 93, Chapter 27, Mississippi Code of 1972) and the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (Title 93, Chapter, 14, Mississippi Code of 1972), the chancery court has jurisdiction over a guardianship or conservatorship for a respondent domiciled or present in this state or having property in this state.

(2) After * * * a petition is filed in a proceeding for a guardianship or conservatorship and until termination of the proceeding, the court in which the petition is filed has:

(a) Exclusive jurisdiction to determine the need for the guardianship or conservatorship;

(b) Exclusive jurisdiction to determine how property of the respondent must be managed, expended, or distributed to or for the use of the respondent, an individual who is dependent in fact on the respondent, or other claimant;

(c) Nonexclusive jurisdiction to determine the validity of a claim against the respondent or property of the respondent or a question of title concerning the property; and

(d) If a guardian or conservator is appointed, exclusive jurisdiction over issues related to administration of the guardianship or conservatorship.

(3) A court that appoints a guardian or conservator has exclusive and continuing jurisdiction over the proceeding until the court terminates the proceeding.

(4) This chapter does not apply to a durable legal relative guardianship to facilitate child placement that may be created by a youth court under Section 43-21-609.

SECTION 3. Section 93-20-105, Mississippi Code of 1972, is amended as follows:

93-20-105. (1) This section does not apply to a guardianship or conservatorship for an adult that is subject to

the transfer provisions of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (Title 93, Chapter 14, Mississippi Code of 1972).

(2) After appointment of a guardian or conservator, the court that made the appointment may transfer the proceeding to a court in another county in this state or another state if transfer is in the best interest of the ward, a final settlement of the conservatorship accounts is made, and the guardian or conservator qualifies as such in the county or state to which the proceeding is being removed.

(3) If a proceeding for a guardianship or conservatorship is pending in another state or a foreign country and a petition for guardianship or conservatorship for the same respondent is filed in a court in this state, the court must notify the court in the other state or foreign country and, after consultation with that court, assume or decline jurisdiction, whichever is in the best interest of the respondent.

(4) A guardian or conservator appointed in another state or country may petition the court for appointment as a guardian or conservator in this state for the same individual if jurisdiction in this state is or will be established. The appointment may be made on proof as outlined in Section 93-20-124.

(5) Summons giving notice of hearing on a petition under subsection (4), together with a copy of the petition, must be given to the respondent, if the respondent is at least fourteen

(14) years of age at the time of the hearing, and to the persons that would be entitled to summons or notice if the procedures for appointment of a guardian or conservator under this chapter were applicable. The court shall make the appointment unless it determines the appointment would not be in the best interest of the respondent.

(6) Not later than fourteen (14) days after appointment under subsection (5), the guardian or conservator must give a copy of the order of appointment to the ward, if the ward is at least fourteen (14) years of age, and to all persons given notice of the hearing on the petition.

SECTION 4. Section 93-20-107, Mississippi Code of 1972, is amended as follows:

93-20-107. (1) Except as otherwise provided in this chapter, the Mississippi Rules of Evidence and Mississippi Rules of Civil Procedure, including rules concerning appellate review, govern a proceeding under this chapter.

(2) * * * Proceedings for a guardianship * * * and conservatorship for the same individual * * * may be commenced in a single proceeding, and if separate proceedings are commenced or pending in the same court, the proceedings may be consolidated.

(3) If the court finds that a provision of this chapter conflicts with a provision of Title 35, Chapter 5, Mississippi Code of 1972 (Uniform Veterans' Guardianship Law), the court must resolve the conflict in the best interest of the ward.

SECTION 5. Section 93-20-108, Mississippi Code of 1972, is amended as follows:

93-20-108. (1) At or before the time of appointment, the guardian or conservator must take and subscribe an oath faithfully to discharge the duties of guardian or conservator of the ward according to law.

(* * *2) The clerk must issue letters of guardianship to a guardian who takes the proper oath, posts bond if required, and submits a certificate of attorney and certificate of fiduciary, unless waived by the court.

(* * *3) The clerk must issue letters of conservatorship to a conservator who takes the proper oath, posts bond if required, and submits a certificate of attorney and certificate of fiduciary, unless waived by the court or unless the conservator complies with another asset-protection arrangement required by the court.

(* * *4) The court in its initial order of appointment or at any subsequent time may limit the powers conferred on a guardian or conservator. The court shall direct the clerk to issue new letters of guardianship or conservatorship that reflect the limitation. The court shall direct the clerk to give notice of the limitation by service of a copy of the court's order with proof of service on the guardian or conservator, the ward, and any other person the court determines.

(* * *5) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be stated in the letters of guardianship or conservatorship.

(6) Letters of guardianship and conservatorship may be combined in one (1) document if the guardian and conservator are the same person.

SECTION 6. Section 93-20-113, Mississippi Code of 1972, is amended as follows:

93-20-113. (1) Except as otherwise provided in Section 93-20-203, 93-20-303 * * * or 93-20-403 * * *, if notice of a hearing under this chapter is required, the movant must give notice under Rule 5 of the Mississippi Rules of Civil Procedure of the date, time, and place of the hearing to the person to be notified unless otherwise ordered by the court for good cause shown. * * *

(2) Proof of notice given of a hearing under this chapter must be made before or at the hearing and filed in the proceeding.

(3) Notice given of a hearing under this chapter must be in at least sixteen-point font, in plain language, and, to the extent feasible, in a language in which the person to be notified is proficient.

(4) Any person interested in the ward's welfare may file a motion to intervene as provided by Rule 24 of the Mississippi Rules of Civil Procedure.

SECTION 7. Section 93-20-116, Mississippi Code of 1972, is amended as follows:

93-20-116. (1) A person may file with the court a request for notice under this chapter if the person is:

(a) Not otherwise entitled to notice under Section 93-20-203, Section 93-20-303 * * * or Section 93-20-403 * * *; and

(b) Interested in the welfare of a respondent or ward.

(2) A request under subsection (1) must include a statement showing the interest of the person making the request and the address of the person or an attorney for the person to whom notice is to be given.

(3) If the court approves a request under subsection (1), the court must give notice of the approval to the guardian or conservator, if one has been appointed, or to the respondent if no guardian or conservator has been appointed.

SECTION 8. Section 93-20-118, Mississippi Code of 1972, is amended as follows:

93-20-118. (1) An attorney for a respondent in a proceeding under this chapter may be awarded reasonable compensation for services and reasonable expenses in the discretion of the court.

(2) An attorney or other person whose services resulted in an order beneficial to a ward may be awarded reasonable compensation for services and reasonable expenses in the discretion of the court.

(3) The court must approve compensation and expenses payable under this section before payment. Approval is not required before a service is provided or an expense is incurred.

(4) If the court dismisses a petition under this chapter and determines the petition was filed in bad faith, the court may assess any costs and attorney's fees the court deems appropriate.

SECTION 9. Section 93-20-125, Mississippi Code of 1972, is amended as follows:

93-20-125. Except as otherwise provided in this chapter:

(a) This chapter applies to all guardianship and conservatorship proceedings commenced on or after January 1, 2020;

(b) This chapter applies to all guardianship and conservatorship proceedings commenced before January 1, 2020, unless the court * * *, in its discretion, determines that the superseded law * * * should apply. The requirements of this chapter providing for increased court oversight and periodic monitoring do not require that a new proceeding be commenced; and

(c) An act done before January 1, 2020, is not affected by this chapter.

SECTION 10. Section 93-20-201, Mississippi Code of 1972, is amended as follows:

93-20-201. (1) A person becomes a guardian for a minor only on appointment by the court.

(2) The court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is in the minor's best interest, and:

(a) Each parent of the minor, after being fully informed of the nature and consequences of guardianship, consents;

(b) All parental rights have been terminated; or

(c) There is clear and convincing evidence that no parent of the minor is willing or able to exercise the powers the court is granting the guardian.

(3) The guardian for a minor is not required to retain an attorney of record for the guardianship if the courts finds that this would impose an undue burden on the ward's estate.

SECTION 11. Section 93-20-202, Mississippi Code of 1972, is amended as follows:

93-20-202. (1) A person interested in the welfare of a minor, including the minor, may petition for appointment of a guardian for the minor.

(2) A petition under subsection (1) must comply with the requirement for an affidavit under the Uniform Child Custody Jurisdiction and Enforcement Act (Title 93, Chapter 27, Mississippi Code of 1972) and must also include:

(a) The name and address of any attorney for the parents of the minor;

(b) The reason guardianship is sought and would be in the best interest of the minor;

(c) The name and address of any proposed guardian and the reason the proposed guardian should be selected; and

(d) If the minor has property other than personal effects, a general statement of the minor's property with an estimate of its value.

(3) Notice of a hearing on a petition filed after the appointment of a guardian which seeks an order under this article, together with a copy of the petition, must be given to the * * * ward, the guardian, the parents of the ward, and any other person the court determines.

SECTION 12. Section 93-20-203, Mississippi Code of 1972, is amended as follows:

93-20-203. (1) If a petition is filed under Section 93-20-202, the court must set a date, time and place for a hearing, and the petitioner must * * * cause summons to be issued and served not less than seven (7) days * * * before the hearing, together with a copy of the petition, on each of the following who is not the petitioner:

(a) The minor, if the minor will be fourteen (14) years of age or older at the time of the hearing;

(b) Each parent of the minor who can be found with reasonable diligence or, if there is none, the adult nearest in kinship who can be found with reasonable diligence; and

* * *

(* * *c) Each individual who had primary care or custody of the minor for at least sixty (60) days during the six (6) months immediately before the filing of the petition * * *.

* * *

(2) For any other person the court determines should know of the proceedings, notice must be provided under Rule 5 of the Mississippi Rules of Civil Procedure.

(* * *3) A petition under this article must state the name and address of an attorney representing the petitioner, if any, and must set forth under the style of the case and before the body of the petition the following language in bold or highlighted type:

"THE RELIEF SOUGHT HEREIN MAY AFFECT YOUR LEGAL RIGHTS. YOU HAVE A RIGHT TO NOTICE OF ANY HEARING ON THIS PETITION, TO ATTEND ANY SUCH HEARING, AND TO BE REPRESENTED BY AN ATTORNEY."

(* * *4) If a petitioner is unable to serve * * * summons under subsection (1)(a), the court may appoint a guardian ad litem for the minor for the purpose of receiving * * * summons.

SECTION 13. Section 93-20-206, Mississippi Code of 1972, is amended as follows:

93-20-206. (1) After a hearing * * * the court may appoint a guardian for a minor, dismiss the proceeding, or take other appropriate action consistent with this chapter or law of this state other than this chapter.

(2) In appointing a guardian under subsection (1), the following apply:

(a) The court shall appoint a person nominated as guardian by a parent of the minor in a will or other record unless the court finds the appointment is contrary to the best interest of the minor.

(b) If multiple parents have nominated different persons to serve as guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(c) If a guardian is not appointed under paragraph (a) or (b), the court shall appoint the person nominated by the minor if the minor is fourteen (14) years of age or older unless the court finds that appointment is contrary to the best interest of the minor. In that case, the court shall appoint as guardian a person whose appointment is in the best interest of the minor.

(3) In the interest of maintaining or encouraging involvement by a minor's parent in the minor's life, developing self-reliance of the minor, or for other good cause, the court, at the time of appointment of a guardian for the minor or later, on its own or on motion of the minor or other interested person, may create a limited guardianship by limiting the powers otherwise granted by this article to the guardian. Following the same

procedure, the court may grant additional powers or withdraw powers previously granted.

(4) The court, as part of an order appointing a guardian for a minor, shall state rights retained by any parent of the minor, which may include contact or visitation with the minor, decision-making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

(5) An order granting a guardianship for a minor must state that each parent of the minor is entitled to notice that:

(a) The location of the minor's residency has changed;

(b) The court has modified or limited the powers of the guardian; or

(c) The court has removed the guardian.

SECTION 14. Section 93-20-207, Mississippi Code of 1972, is amended as follows:

93-20-207. (1) On a petition by a person interested in a minor's welfare or a petition filed under Section 93-20-202, the court may appoint an emergency guardian for the minor if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the minor's health, safety, or welfare; and

(b) No other person appears to have authority and willingness to act in the circumstances.

(2) The duration of authority of an emergency guardian for a minor may not exceed sixty (60) days, and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be extended one (1) time for not more than sixty (60) days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) continue.

(3) Except as otherwise provided in subsection (4), summons giving reasonable notice of the date, time, and place of a hearing on a petition for appointment of an emergency guardian for a minor must be given to:

(a) The minor, if the minor is fourteen (14) years of age or older;

(b) Any attorney appointed under Section 93-20-204;

(c) Each parent of the minor;

(d) Any person, other than a parent, having care or custody of the minor; and

(e) Any other person the court determines.

(4) The court may appoint an emergency guardian for a minor under subsection (3) without notice or a hearing only if the court finds from an affidavit or testimony that the minor's health, safety, or welfare will be substantially harmed before a hearing after notice of the appointment could be held. If the court appoints an emergency guardian to an unrepresented minor or the attorney for a represented minor without notice, notice of the

appointment must be given not later than forty-eight (48) hours after the appointment to the individuals listed in subsection (3) and summons must be issued on continuation of the guardianship. The court must hold a hearing on continuation of a guardianship within five (5) days of any objection or other contest. Not later than five (5) days after the appointment, the court must hold a hearing on the appropriateness of the appointment.

(5) Appointment of an emergency guardian under this section, with or without notice, is not a determination that a basis exists for appointment of a guardian under Section 93-20-201.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian must make any report the court requires.

SECTION 15. Section 93-20-301, Mississippi Code of 1972, is amended as follows:

93-20-301. (1) The court may appoint a guardian for an adult when the respondent lacks the ability to meet essential requirements for physical health, safety or self-care because:

(a) The adult is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services or technological assistance; or

(b) The adult is found to be a person with mental illness or a person with an intellectual disability as defined in Section 41-21-61 who is also incapable of taking care of his or her person.

(2) The court shall grant to a guardian * * * only those powers necessitated by the limitations and demonstrated needs of the ward and must enter orders that will encourage the development of the ward's maximum self-determination and independence. The court must consider any less restrictive alternative that would meet the needs of the ward.

SECTION 16. Section 93-20-302, Mississippi Code of 1972, is amended as follows:

93-20-302. (1) A proceeding under this article may be instituted by the chancellor or clerk of the chancery court, any relative or friend of the adult, or any other interested party, including the adult for whom the order is sought, by filing a sworn petition in the chancery court of the county of the residence of the adult, setting forth that the adult is alleged to be in need of a guardianship.

(2) The petition must state the name and address of an attorney representing the petitioner, if any, and must set forth under the style of the case and before the body of the petition the following language in bold or highlighted type:

"THE RELIEF SOUGHT HEREIN MAY AFFECT YOUR LEGAL RIGHTS. YOU HAVE A RIGHT TO NOTICE OF ANY HEARING ON THIS PETITION, TO ATTEND ANY SUCH HEARING, AND TO BE REPRESENTED BY AN ATTORNEY."

(3) The guardian for an adult is not required to retain an attorney of record for the guardianship if the court finds that this would impose an undue burden on the ward's estate.

SECTION 17. Section 93-20-303, Mississippi Code of 1972, is amended as follows:

93-20-303. **Notice of hearing for appointment of guardian for adult; notice of hearing after appointment of guardian.** (1) On receipt of a petition under Section 93-20-302 for appointment of a guardian for a respondent who is an adult, the court must set a date, time and place for a hearing, and * * * unless the court finds that the adult for whom the guardian is to be appointed is competent and joins in the petition, the petitioner must cause summons to be served not less than seven (7) * * * days before the hearing, together with a copy of the petition, on the adult for whom the guardian is to be appointed * * *. The court may, for good cause shown, direct that a shorter notice be given.

* * *

(* * *2) Unless the court finds that the adult for whom the guardian is to be appointed is competent and joins in the petition, * * * summons must also * * * issue to:

(a) Any conservator appointed to the respondent;

* * *

(b) At least one (1) adult relative of the respondent who resides in Mississippi from the following group in the listed order of preference: * * * spouse, children, parents * * *, siblings * * *; but if none of those can be found * * *:

(* * *i) To one (1) adult relative of the * * * respondent who is not the petitioner and who resides in

Mississippi if that relative is within the third degree of kinship.

(ii) If no relative within the third degree of kinship to the * * * respondent is found residing in the State of Mississippi, the court shall either designate some other appropriate person to receive the * * * summons or appoint a guardian ad litem to receive * * * the summons.

(3) In a proceeding on a petition under this article, notice of the hearing must also be given to any other person the court determines is entitled to notice. Failure to give notice does not preclude the court from appointing a guardian.

(4) If the person for whom the guardian is to be appointed is entitled to any benefit, estate or income paid or payable by or through the Veterans' Administration of the United States government, such administration must also be given * * * a summons.

(5) Notice of a hearing on a petition seeking an order under this article that is filed after the appointment of a guardian, together with a copy of the petition, must be given to the * * * ward, the guardian, and any other person the court determines.

SECTION 18. Section 93-20-306, Mississippi Code of 1972, is amended as follows:

93-20-306. (1) At a hearing held under * * * this article, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses; and

(c) Otherwise participate in the hearing.

(2) Unless excused by the court for good cause shown, a proposed guardian must attend a hearing under * * * this article.

(3) A hearing under * * * this article must be closed upon request of the respondent and a showing of good cause.

(4) Any person may request to participate in a hearing under * * * this article. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

SECTION 19. Section 93-20-309, Mississippi Code of 1972, is amended as follows:

93-20-309. (1) A court order appointing a guardian for an adult must:

(a) Include a specific finding that clear and convincing evidence established that the identified needs of the respondent cannot be met by a less restrictive alternative, including use of appropriate supportive services and technological assistance; and

(b) Include a specific finding that clear and convincing evidence established the respondent was given

proper * * * summons notifying the respondent of the hearing on the petition.

(2) A court order establishing a full guardianship for an adult must state the basis for granting a full guardianship and include specific findings that support the conclusion that a limited guardianship would not meet the functional needs of the ward.

(3) A court order establishing a limited guardianship for an adult must state the specific powers granted to the guardian.

(4) The court, as part of an order establishing a guardianship for an adult, must identify and include the contact information for any person that subsequently is entitled to:

(a) Notice of the rights of the adult under Section 93-20-310(2);

(b) Notice of a change in the primary dwelling of the adult;

(c) Notice that the guardian has delegated:

(i) The power to manage the care of the adult;

(ii) The power to make decisions about where the adult lives;

(iii) The power to make major medical decisions on behalf of the adult;

(iv) A power that requires court approval under Section 93-20-314; or

(v) Substantially all powers of the guardian;

(d) A copy of the guardian's plan under Section 93-20-315 and the guardian's well-being report under Section 93-20-316;

(e) Access to court records relating to the guardianship;

(f) Notice of the death or significant change in the condition of the adult;

(g) Notice that the court has limited or modified the powers of the guardian; and

(h) Notice of the removal of the guardian.

(5) A spouse and adult children of a ward are entitled to notice under Section 93-20-303 * * * unless the court determines notice would be contrary to the preferences or prior directions of the ward or not in the best interest of the ward.

(6) (a) If the chancellor finds from the evidence that the adult is incapable of taking care of his person, the chancellor shall appoint a guardian over the person.

(b) The costs and expenses of the proceedings shall be paid out of the estate of the person if a guardian is appointed. If a guardian is appointed and the adult has no estate, or if no guardian is appointed, then the costs and expenses must be paid by the person instituting the proceedings.

SECTION 20. Section 93-20-310, Mississippi Code of 1972, is amended as follows:

93-20-310. (1) A guardian appointed under Section 93-20-309 must give the ward and all other persons given notice under Section 93-20-309(4) a copy of the order of appointment, together with notice of the right to request termination or modification. The order and notice must be given not later than fourteen (14) days after the appointment.

(2) Not later than fourteen (14) days after appointment of a guardian under Section 93-20-309, the guardian must request from the court a statement of the rights of the ward and must give the statement to the ward and any other person entitled to notice under Section 93-20-303 * * * or a court order. The statement must notify the ward of the right to:

(a) Seek termination or modification of the guardianship, or removal of the guardian, and choose an attorney to represent the adult in these matters;

(b) Be involved in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions, to the extent reasonably feasible;

(c) Be involved in health-care decision-making to the extent reasonably feasible and supported in understanding the risks and benefits of health-care options to the extent reasonably feasible;

(d) Be notified at least fourteen (14) days before a change in the adult's primary dwelling or permanent move to a nursing home, mental-health facility, or other facility that

places restrictions on the individual's ability to leave or have visitors, unless the change or move is proposed in the guardian's plan under Section 93-20-315 or authorized by the court by specific order;

(e) Object to a change or move described in paragraph (d) and the process for objecting;

(f) Communicate, visit, or interact with others, including receiving visitors, and making or receiving telephone calls, personal mail, or electronic communications, including through social media, unless:

(i) The guardian has been authorized by the court by specific order to restrict communications, visits, or interactions;

(ii) A protective order is in effect that limits contact between the adult and a person; or

(iii) The guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological, or financial harm to the adult, and the restriction is:

1. For a period of not more than seven (7) business days if the person has a family or pre-existing social relationship with the adult; or

2. For a period of not more than sixty (60) days if the person does not have a family or pre-existing social relationship with the adult;

(g) Receive a copy of the guardian's plan under Section 93-20-315 and the guardian's well-being report under Section 93-20-316; and

(h) Object to the guardian's plan or report.

SECTION 21. Section 93-20-311, Mississippi Code of 1972, is amended as follows:

93-20-311. (1) On a petition by a person interested in an adult's welfare or a petition filed under Section 93-20-302, the court may appoint an emergency guardian for the adult if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the adult's physical health, safety, or welfare;

(b) No other person appears to have authority and willingness to act in the circumstances; and

(c) There is reason to believe that a basis for appointment of a guardian under Section 93-20-301 exists.

(2) The duration of authority of an emergency guardian for an adult may not exceed sixty (60) days, and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be extended once for not more than sixty (60) days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) continue. Summons must be issued on continuation of the guardianship as required in subsection (4).

(3) Except as otherwise provided in subsection (4), summons giving reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) (a) The court may appoint an emergency guardian for an adult without notice to the adult and any attorney for the adult only if the court finds from an affidavit or testimony that the respondent's physical health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without giving notice under subsection (3), the court must give notice of the appointment not later than forty-eight (48) hours after the appointment to:

(* * *i) The respondent;

(* * *ii) The respondent's attorney;

(* * *iii) Any other person the court determines; and

(* * *b) The court must hold a hearing on the appropriateness of the appointment not later than five (5) days after the appointment.

(5) Appointment of an emergency guardian under this section is not a final determination that a basis exists for appointment of a guardian under Section 93-20-301.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian must make any report the court requires.

SECTION 22. Section 93-20-403, Mississippi Code of 1972, is amended as follows:

93-20-403. **Notice and hearing for appointment of conservator; notice of hearing after appointment of conservator.** (1) On receipt of a petition under Section 93-20-402 for appointment of a conservator for a respondent, the court must set a date, time, and place for a hearing on the petition, and * * * unless the court finds that the respondent for whom the conservator is to be appointed is competent and joins in the petition, the petitioner must cause summons to be served not less than seven (7) * * * days before the hearing, together with a copy of the petition, on the person for whom the conservator is to be appointed * * *. The court may, for good cause shown, direct that a shorter notice be given.

* * *

(* * *2) Unless the court finds that the respondent for whom the conservator is to be appointed is competent and joins in the petition, the * * * summons must also * * * issue to * * *:

(a) Any guardian appointed to the respondent; and

(* * *b) * * * At least one (1) adult relative of the respondent who resides in Mississippi from the following group in

the listed order of preference: spouse, children, parents * * *, siblings * * *; but if none of those can be found * * *:

(* * *i) To one (1) adult relative of the * * * respondent and who is not the petitioner and who resides in Mississippi if that relative is within the third degree of kinship.

(ii) If no relative within the third degree of kinship to the * * * respondent is found residing in the State of Mississippi, the court must either designate some other appropriate person to receive the * * * summons or appoint a guardian ad litem to receive * * * the summons.

(3) In a proceeding under this article, notice of the hearing also must be given to any other person interested in the respondent's welfare the court determines is entitled to notice. Failure to give notice under this subsection does not preclude the court from appointing a guardian.

(4) If the person for whom the conservator is to be appointed is entitled to any benefit, estate or income paid or payable by or through the Veterans' Administration of the United States government, such administration shall also be given * * * summons.

(5) Notice of a hearing on a petition seeking an order under this article that is filed after the appointment of a conservator, together with a copy of the petition, must be given to the * * * ward, the conservator, and any other person the court determines.

SECTION 23. Section 93-20-405, Mississippi Code of 1972, is amended as follows:

93-20-405. The court may appoint a guardian ad litem to any respondent and allow suitable compensation payable out of the estate of the respondent, but the appointment shall not be made unless the court considers it necessary * * *; a judgment of any court is not void or erroneous because of the failure to have a guardian ad litem.

SECTION 24. Section 93-20-407, Mississippi Code of 1972, is amended as follows:

93-20-407. (1) The chancery court must conduct a hearing to determine whether a conservator is needed for the respondent. Before the hearing, the court, in its discretion, may appoint a guardian ad litem * * *, and the guardian ad litem must be present at the hearing and present the interests of the respondent.

(2) The chancery judge shall be the judge of the number and character of the witnesses and proof to be presented, except that the proof must include certificates made after a personal examination of the respondent by the following professionals, each of whom must make in writing a certificate of the result of that examination to be filed with the clerk of the court and become a part of the record of the case.

(a) Two (2) licensed physicians; or

(b) One (1) licensed physician and either one (1) licensed psychologist, nurse practitioner, or physician's assistant.

(3) The personal examination may occur face-to-face or via telemedicine, but any telemedicine examination must be made using an audiovisual connection by a physician licensed in this state and as defined in Section 83-9-351. A nurse practitioner or physician assistant conducting an examination shall not also be in a collaborative or supervisory relationship, as the law may otherwise require, with the physician conducting the examination. A professional conducting an examination under this section may also be called to testify at the hearing.

(4) The personal examination requirement in subsections (2) and (3) * * * does not apply if the respondent is:

(a) Missing, detained or unable to return to the United States * * *; or

(b) A minor with no other disability or incapacity. However, a personal examination is required to extend a conservatorship beyond the age of majority.

SECTION 25. Section 93-20-408, Mississippi Code of 1972, is amended as follows:

93-20-408. (1) At a hearing under * * * this article, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses; and

(c) Otherwise participate in the hearing.

(2) Unless excused by the court for good cause, a proposed conservator must attend a hearing under * * * this article.

(3) A hearing under * * * this article must be closed on request of the respondent and a showing of good cause.

(4) Any person may request to participate in a hearing under * * * this article. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

SECTION 26. Section 93-20-411, Mississippi Code of 1972, is amended as follows:

93-20-411. (1) A court order appointing a conservator for a minor must include findings to support appointment of a conservator and, if a full conservatorship is granted, the reason a limited conservatorship would not meet the identified needs of the minor.

(2) A court order appointing a conservator for an adult must:

(a) Include a specific finding that clear and convincing evidence has established that the identified needs of the respondent cannot be met by a less restrictive alternative, including use of appropriate supportive services or technological assistance; and

(b) Include a specific finding that clear and convincing evidence established that the respondent was given proper * * * summons notifying the respondent of the hearing on the petition.

(3) A court order establishing a full conservatorship for an adult must state the basis for granting a full conservatorship and include specific findings to support the conclusion that a limited conservatorship would not meet the functional needs of the adult.

(4) A court order establishing a limited conservatorship must state the specific property placed under the control of the conservator and the powers granted to the conservator.

(5) The court, as part of an order establishing a conservatorship, must identify and include the contact information for any person that subsequently is entitled to:

(a) Notice of the rights of the ward under Section 93-20-412(2);

(b) Notice of a sale of or surrender of a lease to the primary dwelling of the individual;

(c) Notice that the conservator has delegated a power that requires court approval under Section 93-20-414 or substantially all powers of the conservator;

(d) Notice that the conservator will be unavailable to perform the conservator's duties for more than one (1) month;

(e) A copy of the conservator's plan under Section 93-20-419 and the conservator's report under Section 93-20-423;

(f) Access to court records relating to the conservatorship;

(g) Notice of a transaction involving a substantial conflict between the conservator's fiduciary duties and personal interests;

(h) Notice of the death or significant change in the condition of the individual;

(i) Notice that the court has limited or modified the powers of the conservator; and

(j) Notice of the removal of the conservator.

(6) If a ward is an adult, the spouse and adult children of the ward are entitled under subsection (5) to notice unless the court determines notice would be contrary to the preferences or prior directions of the ward or are not in the best interest of the ward.

(7) If a ward is a minor, each parent and adult sibling of the minor is entitled to notice under subsection (5) unless the court determines notice would not be in the best interest of the minor.

(8) (a) If the chancellor finds from the evidence that the person is in need of a conservatorship, the chancellor must appoint a conservator over the estate of the person.

(b) The costs and expenses of the proceedings shall be paid out of the estate of the respondent if a conservator is appointed. If a conservator is not appointed, the costs and

expenses shall be paid by the person instituting the proceedings unless the proceedings were instituted by the court or the chancery clerk.

SECTION 27. Section 93-20-413, Mississippi Code of 1972, is amended as follows:

93-20-413. (1) Upon a petition by a person interested in an individual's welfare or a petition filed under Section 93-20-402, the court may appoint an emergency conservator for the individual if the court finds:

(a) Appointment of an emergency conservator is likely to prevent substantial and irreparable harm to the individual's property or financial interests;

(b) No other person appears to have authority and willingness to act in the circumstances; and

(c) There is reason to believe that a basis for appointment of a conservator under Section 93-20-401 exists.

(2) The duration of authority of an emergency conservator may not exceed sixty (60) days and the emergency conservator may exercise only the powers specified in the order of appointment. The emergency conservator's authority may be extended once for not more than sixty (60) days if the court finds that the conditions for appointment of an emergency conservator under subsection (1) continue. Summons must be issued on continuation of the guardianship as required in subsection (4).

(3) Except as otherwise provided in subsection (4), summons giving reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency conservator without notice to the respondent and any attorney for the respondent only if the court finds from an affidavit or testimony that the respondent's property or financial interests will be substantially and irreparably harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency conservator without giving notice under subsection (3), the court must give notice of the appointment not later than forty-eight (48) hours after the appointment to:

(a) The respondent;

(b) The respondent's attorney;

(c) Any other person the court determines; and

(d) Hold a hearing on the appropriateness of the appointment not later than five (5) days after the appointment.

(5) Appointment of an emergency conservator under this section is not a determination that a basis exists for appointment of a conservator under Section 93-20-401.

(6) The court may remove an emergency conservator appointed under this section at any time. The emergency conservator shall make any report the court requires.

SECTION 28. Section 93-20-431, Mississippi Code of 1972, is amended as follows:

93-20-431. (1) Unless a person required to transfer * * * a liquidated sum certain under a banking provision, a contract for payment or under a judgment or decree of a court, or other property to a minor knows that a conservator for the minor has been appointed or a proceeding is pending for conservatorship * * *:

(a) The person may transfer a liquidated sum certain or property of certain value not exceeding Twenty-five Thousand Dollars ($25,000.00) in a twelve-month period to:

(i) A person who has care or custody of the minor and with whom the minor resides;

(* * *ii) A guardian for the minor;

(* * *iii) A custodian under the Uniform Transfers to Minors Act, Section 91-20-1 et seq.; or

(* * *iv) A financial institution as a deposit in an account or certificate solely in the name of the minor; notice of the deposit must be given to the minor; or

(* * *v) An Achieving a Better Life Experience (ABLE) account.

(b) The person must seek chancery court approval if the sum of money or value of property that may be due to the ward is not a liquidated sum certain or property of certain value under a banking provision, a contract for payment, or under a judgment,

order or decree of a court, and the chancery court before ordering the money paid or personal property delivered must fully investigate the matter and satisfy itself by evidence or otherwise that the proposed sum of money to be paid or property to be delivered because of any claim of the ward whatsoever, whether arising ex delicto or ex contractu, is a fair settlement of the claim of the ward and that it is in the best interest of the ward that the settlement be made or the personal property be delivered to the ward. Upon making that determination, the chancery court may order that the money or personal property be accepted by the ward and paid or delivered by the party owing the money or in possession of the property as authorized by the decree of the court, and compliance with the order shall acquit and release the person so paying or delivering the same. The person who receives the money or property of a ward under the order thereby becomes amenable to the court for the disposition of it for the use and benefit of the ward, but is not required to furnish security therefor absent order of the chancery court.

(2) A person that transfers funds or other property under this section is not responsible for its proper application.

(3) A person that receives funds or other property for a minor under subsection (1)(a) or (b) may apply it only to the support, care, education, health, or welfare of the minor, and may not derive a personal financial benefit from it, except for reimbursement for necessary expenses. Funds not applied for these

purposes must be preserved for the future support, care, education, health, or welfare of the minor, and the balance, if any, transferred to the minor when the minor becomes an adult or otherwise is emancipated.

(4) Contributions to an ABLE account, and the provisions for permissible disbursements from such account, are governed by 26 U.S.C. Section 529A and the terms of the applicable ABLE plan. The amount of annual contributions is subject to 26 U.S.C. Section 2503(b).

SECTION 29. Sections 93-14-401, 93-14-402 and 93-14-403, Mississippi Code of 1972, which constitute Article 4 of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and deal with the registration and recognition of foreign orders of guardianship and conservatorship, are repealed.

SECTION 30. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2020 Regular Session

Senate Bill 2881

Description: Mississippi Prepaid Affordable College Tuition Program; revise comprehensive investment plan and investment options for.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Majority
Effective date: July 1, 2020

History of Actions:

1	02/17	(S) Referred To Finance
2	03/02	(S) Title Suff Do Pass
3	03/10	(S) Passed {Vote}
4	03/11	(S) Transmitted To House
5	03/25	(H) Referred To Ways and Means
6	06/09	(H) Title Suff Do Pass
7	06/10	(H) Passed {Vote}
8	06/11	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

Code Section: A 037-0155-0009

----- Additional Information -----

Senate Committee: Finance
House Committee: Ways and Means

Principal Author: Harkins

Title: AN ACT TO AMEND SECTION 37-155-9, MISSISSIPPI CODE OF 1972, TO REVISE THE MISSISSIPPI PREPAID AFFORDABLE COLLEGE TUITION PROGRAM BY REVISING THE COMPREHENSIVE INVESTMENT PLAN AND INVESTMENT POLICIES TO BE UTILIZED BY THE BOARD OF DIRECTORS OF THE COLLEGE SAVINGS PLANS OF MISSISSIPPI TRUST FUNDS IN ITS ADMINISTRATION OF THE MISSISSIPPI PREPAID AFFORDABLE COLLEGE TUITION TRUST FUND; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Harkins To: Finance

SENATE BILL NO. 2881

AN ACT TO AMEND SECTION 37-155-9, MISSISSIPPI CODE OF 1972, TO REVISE THE MISSISSIPPI PREPAID AFFORDABLE COLLEGE TUITION PROGRAM BY REVISING THE COMPREHENSIVE INVESTMENT PLAN AND INVESTMENT POLICIES TO BE UTILIZED BY THE BOARD OF DIRECTORS OF THE COLLEGE SAVINGS PLANS OF MISSISSIPPI TRUST FUNDS IN ITS ADMINISTRATION OF THE MISSISSIPPI PREPAID AFFORDABLE COLLEGE TUITION TRUST FUND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-155-9, Mississippi Code of 1972, is amended as follows:

37-155-9. In addition to the powers granted by any other provision of this article, the board of directors shall have the powers necessary or convenient to carry out the purposes and provisions of this article, the purposes and objectives of the trust fund and the powers delegated by any other law of the state or any executive order thereof, including, but not limited to, the following express powers:

(a) To adopt and amend bylaws;

(b) To adopt such rules and regulations as are necessary to implement the provisions of this article;

(c) To invest any funds of the trust fund in any instrument, obligation, security or property that constitutes legal investments for public funds in the state and to name and use depositories for its investments and holdings;

(d) To execute contracts and other necessary instruments;

(e) To impose reasonable requirements for residency for beneficiaries at the time of purchase of the contract and to establish rules to govern purchase of contracts for beneficiaries who are nonresidents at the time the purchaser enters into the prepaid tuition contract;

(f) To impose reasonable limits on the number of contract participants in the trust fund at any given period of time;

(g) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of consultants for administrative and technical assistance in carrying out the responsibilities of the trust fund;

(h) To solicit and accept gifts, including bequeathments or other testamentary gifts made by will, trust or other disposition, grants, loans and other aids from any personal source or to participate in any other way in any federal, state or local governmental programs in carrying out the purposes of this article. Any gifts made to the board under this subsection shall be deductible from taxable income of the state in the tax year;

(i) To define the terms and conditions under which payments may be withdrawn or refunded from the trust fund, including, but not limited to, the amount paid in and an additional amount in the nature of interest at a rate that corresponds, at a minimum, to the prevailing interest rates for savings accounts provided by banks and savings and loan associations and impose reasonable charges for such withdrawal or refund;

(j) To ensure applicability to private and out-of-state tuitions:

(i) Under the program, a state purchaser may enter into a prepaid tuition contract with the board under which the purchaser agrees to attend a public institution of higher education in Mississippi;

(ii) If the beneficiary of a plan described by Section 37-155-11 enrolls in any in-state or out-of-state regionally accredited private four- or two-year college or an out-of-state regionally accredited, state-supported, nonprofit four- or two-year college or university, or any in-state or out-of-state regionally accredited graduate institution, the board shall pay to the institution an amount up to, but not greater than, the undergraduate tuition and required fees that the board would have paid had the beneficiary enrolled in an institution of higher education covered by the plan selected in the prepaid tuition contract. The beneficiary is responsible for paying a

private undergraduate or graduate institution or an out-of-state public undergraduate or graduate institution the amount by which the tuition and required fees of the institution exceed the tuition and required fees paid by the board;

(k) To impose reasonable time limits on the use of the tuition benefits provided by the program;

(l) To provide for the receipt of contributions to the trust fund in lump sums or installment payments;

(m) To adopt an official seal and rules;

(n) To sue and be sued;

(o) To establish agreements or other transactions with federal, state and local agencies, including state universities and community colleges;

(p) To appear in its own behalf before boards, commissions or other governmental agencies;

(q) To segregate contributions and payments to the fund into various accounts and funds;

(r) To require and collect administrative fees and charges in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis;

(s) To procure insurance against any loss in connection with the property, assets and activities of the fund or the board;

(t) To require that purchasers of advance payment contracts verify, under oath, any requests for contract

conversions, substitutions, transfers, cancellations, refund requests or contract changes of any nature;

(u) To administer the fund in a manner that is sufficiently actuarially sound to meet the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure such soundness;.

(v) To establish a comprehensive investment plan for the purposes of this section. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may authorize investments in:

(i) Bonds, notes, certificates and other valid general obligations of the State of Mississippi, or of any county, or of any city, or of any supervisors district of any county of the State of Mississippi, or of any school district bonds of the State of Mississippi; notes or certificates of indebtedness issued by the Veterans' Home Purchase Board of Mississippi, provided such notes or certificates of indebtedness are secured by the pledge of collateral equal to two hundred percent (200%) of the amount of the loan, which collateral is also guaranteed at least for fifty percent (50%) of the face value by the United States government, and provided that not more than five percent (5%) of the total

investment holdings of the system shall be in Veterans' Home Purchase Board notes or certificates at any time; real estate mortgage loans one hundred percent (100%) insured by the Federal Housing Administration on single-family homes located in the State of Mississippi, where monthly collections and all servicing matters are handled by Federal Housing Administration approved mortgagees authorized to make such loans in the State of Mississippi;

(ii) State of Mississippi highway bonds;

(iii) Funds may be deposited in * * * any institution insured by the Federal Deposit Insurance Corporation that maintains a facility that takes deposits in the State of Mississippi which appears on the State of Mississippi Treasury Department's approved depository list and/or safekeeper list or a custodial bank;

(iv) Corporate bonds and taxable municipal bonds of investment grade as rated by Standard & Poor's, by Fitch Ratings, Ltd., or by Moody's Investment Service * * *; or corporate short-term obligations of corporations or of wholly owned subsidiaries of corporations, whose short-term obligations are rated * * * A-2 or better by Standard * * * & Poor's, * * * rated * * * P-2 or better by Moody's Investment Service, or F-2 or better by Fitch Ratings, Ltd., or the equivalent of these ratings if assigned by another United States Securities and Exchange

Commission designated Nationally Recognized Statistical Rating Organization;

(v) Agency and nonagency residential and commercial mortgage-backed securities and collateralized mortgage obligations;

(vi) Convertible bonds;

(* * *vii) Bonds of the Tennessee Valley Authority;

(* * *viii) Bonds, notes, certificates and other valid obligations of the United States, and other valid obligations of any federal instrumentality that issues securities under authority of an act of Congress and are exempt from registration with the Securities and Exchange Commission;

(* * *ix) Bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States. Direct obligations issued by the United States of America shall be deemed to include securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the provisions of * * * the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to direct obligations issued by the United States of America, United States government agencies, United States government instrumentalities or United States government sponsored enterprises, and to repurchase agreements fully collateralized by

direct obligations of the United States of America, United States government agencies, United States government instrumentalities or United States government sponsored enterprises, and the investment company or investment trust takes delivery of such collateral for the repurchase agreement, either directly or through an authorized custodian * * *;

(* * *x) Interest-bearing revenue bonds or notes or bonds or notes which are general obligations of any * * * state in the United States or of any city or county therein, provided * * * that the bonds or notes are of investment grade as rated by Standard & Poor's, by Fitch Ratings, Ltd., or by Moody's Investment Service;

(* * *xi) 1. Shares of stocks, common and/or preferred, of corporations created by or existing under the laws of the United States or any state, district or territory thereof and shares of stocks, common and/or preferred and convertible securities of non-United States companies; provided:

* * *a. The maximum investments in stocks shall not exceed * * * seventy percent (70%) of the * * * market value of the total investment fund * * *;

* * *b. The stock of such corporation shall:

* * *A. Be listed on a national stock exchange; or

* * *B. Be traded in the over-the-counter market, provided price quotations for such

over-the-counter stocks are quoted by the National Association of Securities Dealers Automated Quotation System (NASDAQ);

* * *c. The outstanding shares of such corporation shall have a total market value of not less than Fifty Million Dollars ($50,000,000.00);

* * *d. The amount of investment in any one (1) corporation shall not exceed * * * five percent (5%) of the book value of the assets of the * * * fund; and

* * *e. The shares of any one (1) corporation owned by the * * * fund shall not exceed five percent (5%) of that corporation's outstanding stock;

2. The board may take requisite action to effectuate or hedge such transactions for shares of stock and convertible securities of non-United States companies through foreign or domestic banks, including the purchase and sale, transfer, exchange or otherwise disposal of, and generally deal in foreign exchange through the use of foreign currency, interbank forward contracts, futures contracts, options contracts, swaps and other related derivative instruments, notwithstanding any other provisions of law to the contrary;

(* * *xii) Bonds * * * of investment grade, stocks and convertible securities of established non-United States companies and foreign government securities of investment grade rated by a recognized rating agency, which companies are listed on only primary national stock exchanges of foreign nations; * * *

provided that the total * * * market value of investments under this paragraph shall at no time exceed * * * thirty percent (30%) of the total * * * market value of all investments of the * * * fund. The board may take requisite action to effectuate or hedge such transactions through foreign or domestic banks, including the purchase and sale, transfer, exchange or otherwise disposal of, and generally deal in foreign exchange through the use of foreign currency, interbank forward contracts, futures contracts, options contracts, swaps and other related derivative instruments, notwithstanding any other provisions of this article to the contrary;

(* * *xiii) Covered call and put options on securities or indices traded on one or more of the regulated exchanges;

(* * *xiv) Institutional investment trusts managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of directors, and institutional class shares of investment companies and unit investment trusts registered under the Investment Company Act of 1940 where such funds or shares are comprised of common or preferred stocks, bonds, money market instruments or other investments authorized under this section. Any investment manager or managers approved by the board of directors shall invest such funds or shares as a fiduciary;

(* * *xv) Pooled or commingled real estate funds or real estate securities managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of directors. Such investment in commingled funds or shares shall be held in trust; provided that the total * * * market value of investments under this paragraph shall at no time exceed * * * ten percent (10%) of the total * * * market value of all investments of the * * * fund. Any investment manager approved by the board of directors shall invest such commingled funds or shares as a fiduciary;

(xvi) Types of investments not specifically authorized by this paragraph if the investments are in the form of a separate account managed by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board; or a limited partnership or commingled fund approved by the board; provided that the total market value of investments under this paragraph shall at no time exceed ten percent (10%) of the total market value of all investments of the fund. Any person or entity who exercises any discretionary authority or discretionary control respecting management of the separate account, limited partnership or commingled fund, or who exercises any authority or control respecting management or disposition of the assets of the separate account, limited

partnership or commingled fund shall exercise such authority or control as a fiduciary;

(w) All investments shall be acquired * * * at prices not exceeding the prevailing market values for such * * * investments;

(x) Any limitations herein set forth shall be applicable only at the time of purchase and shall not require the liquidation of any investment at any time. All investments shall be clearly marked to indicate ownership by the * * * fund and to the extent possible shall be registered in the name of the * * * fund;

(y) Subject to the above terms, conditions, limitations and restrictions, the board shall have power to sell, assign, transfer and dispose of any of the securities and investments of the * * * fund, provided that the sale, assignment or transfer has the majority approval of the entire board. The board may employ or contract with investment managers, evaluation services or other such services as determined by the board to be necessary for the effective and efficient operation of the * * * fund;

(z) Except as otherwise provided herein, no trustee and no employee of the board shall have any direct or indirect interest in the income, gains or profits of any investment made by the board, nor shall any such person receive any pay or emolument for his services in connection with any investment made by the board. No trustee or employee of the board shall become an

endorser or surety, or in any manner an obligor for money loaned by or borrowed from the * * * fund;

(aa) All interest derived from investments and any gains from the sale or exchange of investments shall be credited by the board to the account of the * * * fund;

(bb) To delegate responsibility for administration of the comprehensive investment plan to a consultant the board determines to be qualified. Such consultant shall be compensated by the board. Directly or through such consultant, the board may contract to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board or such consultant, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, and asset purchase, control and safekeeping;

(cc) To annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the Governor, the Lieutenant Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the Board of Trustees of State Institutions of Higher Learning, the Mississippi Community College Board and the State Board of Education on or before March 31 each year. In addition, the board shall make the report available to purchasers of advance payment

contracts. The board shall provide to the Board of Trustees of State Institutions of Higher Learning and the Mississippi Community College Board by March 31 each year complete advance payment contract sales information including projected postsecondary enrollments of beneficiaries. The accounts of the fund shall be subject to annual audits by the State Auditor or his designee;

(dd) To solicit proposals for the marketing of the Mississippi Prepaid Affordable College Tuition Program. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall solely be responsible for the marketing of the program. Any materials produced for the purpose of marketing the programs shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor the board shall be liable for misrepresentation of the program by a marketing agent; and

(ee) To establish other policies, procedures and criteria necessary to implement and administer the provisions of this article.

For efficient and effective administration of the program and trust fund, the board may authorize the State of Mississippi

Treasury Department and/or the State Treasurer to carry out any or all of the powers and duties enumerated above.

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.

Mississippi Legislature
2020 Regular Session

Senate Bill 2979

Description: Appropriations; additional appropriations for Veterans Affairs Board for FY20.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law
Deadline: Appropriation
Revenue: No
Vote type required: Majority
Effective date: Passage

History of Actions:

1	05/27	(S) Referred To Appropriations
2	05/28	(S) Title Suff Do Pass
3	05/28	(S) Passed {Vote}
4	06/01	(S) Transmitted To House
5	06/02	(H) Referred To Appropriations
6	06/09	(H) Title Suff Do Pass
7	06/10	(H) Passed {Vote}
8	06/11	(H) Returned For Enrolling
9	06/17	(S) Enrolled Bill Signed
10	06/17	(H) Enrolled Bill Signed
11	06/23	Approved by Governor

----- Additional Information -----

Senate Committee: Appropriations
House Committee: Appropriations

Principal Author: Hopson

Title: AN ACT MAKING AN ADDITIONAL APPROPRIATION OF SPECIAL FUNDS TO DEFRAY THE EXPENSES OF THE VETERANS AFFAIRS BOARD FOR FISCAL YEAR 2020; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Hopson To: Appropriations

SENATE BILL NO. 2979

AN ACT MAKING AN ADDITIONAL APPROPRIATION OF SPECIAL FUNDS TO DEFRAY THE EXPENSES OF THE VETERANS AFFAIRS BOARD FOR FISCAL YEAR 2020; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the special fund in the State Treasury to the credit of the Veterans Affairs Board which is comprised of special source funds collected by or otherwise available to the board, for the support and maintenance of said board for the fiscal year beginning July 1, 2019, and ending June 30, 2020.....$ 5,000,000.00.

This additional appropriation is made to the Veterans Affairs Board to defray the expenses for preparedness and response to COVID-19.

SECTION 2. This act shall take effect and be in force from and after its passage.

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